

TO

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FIRST ASSISTANT,

AGENT, GOVERNOR-GENERAL FOR CENTRAL INDIA.

This Work

IS

MOST RESPECTFULLY DEDICATED

(WITH PERMISSION)

BY

THE AUTHOR.

**MANUAL OF THE NEW STAMP LAW,
(ACT 1 OF 1879.)**

M A N U A L
OF THE
NEW STAMP LAW,
(ACT 1, OF 1879)

WITH NOTES FROM THE DECISIONS OF H. M.'S PRIVY COUNCIL,
THE SEVERAL HIGH COURTS IN INDIA, THE CHIEF COURT OF
THE PANJAB, AND THE COURT OF THE JUDICIAL COMMISSIONER
IN OUDH. THE FINAL REPORT OF THE SELECT COMMITTEE AND
MARGINAL NOTES SHOWING THE SECTION OF THE OLD ACT,
ENGLISH STATUTE, &c, &c

WITH A COPIOUS INDEX,

BY

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PLEADER HIGH COURT.

Late A Government Reporter on the Vernacular Press
of Upper India.

Author of "*The Manual Rent Law*," "*Digest Indian Law Reports*,"
&c, &c.

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LIST OF ABBREVIATIONS.

B. L. R.	Bengal Law Reports.
F. R. C. S.	Final Report Select Committee
H. C. R. M.	High Court Reports Madras.
H. C. R. B.	High Court Reports Bombay.
H.C.R.N.W.P.	High Court Reports North-Western Provinces.
I.L.R.C.S.	Indian Law Report Calcutta Series.
I.L.R.M.S.	Indian Law Report Madras Series.
I.L.R.B.S.	Indian Law Reports Bombay Series.
I L.R.A.S	Indian Law Report Allahabad Series.
J. C. O.	Judicial Commissioner Oudh.
P. R.	Panjab Record.
P. C. C.	Panjab Chief Court.
W. R.	Weekly Reporter.

P R E F A C E.

My object in publishing this work is, that I may be able to bring within the reach of those whose work chiefly lies in the Civil Courts. In the Appendices A and B will be found notes and rulings collected and reported in the fourteen Volumes of Moore's Indian Appeals; Law Reports, Indian Appeals, from Vol. I up to date; 26 Volumes of the Weekly Reporter; 8 Volumes, Madras High Court Reports; 12 Volumes, Bombay High Court Reports; 15 Volumes, Bengal Law Reports; and three Volumes, Indian Law Reports (complete series) &c., and some further rules issued by the Governor-General in Council.

I hope the Manual will be found useful by the Bench, the Bar, the public, and the student who most need help.

J. P.

1st April, 1880.

INTRODUCTION.

This Act is the last and most important of a series of Enactments and Regulations, a short brief history of the Stamp Laws may be found interesting.

“Stamp duties have been, since the days of William and Mary, a branch of the perpetual revenue of the Sovereigns of England. It has always been, both in Great Britain and Ireland and also in India a most fruitful source of revenue, and in both countries it has constantly been the subject of fresh laws and regulations. Of late years, the average income from this source in England has been more than nine millions.”

2. The First Enactment in India upon stamps would appear to be Regulation VI of 1797 and came into force on the 10th of April and swept away the undefined fees which the Kazis and Muftis were empowered to receive under Regulation XXXIX of 1793. This was the first step towards making stamp duties a part of Indian revenue.

3. The Second Enactment was Regulation VII of 1800. The third was Regulation XIII of 1806. This was passed in consequence of attempts made to forge the stamp paper the Government supplied. The fourth was Regulation VIII of 1807, the provisions of Regulation XIII of 1806 were a source of delay and confusion, and on the 16th April 1807 they were modified or rather held in abeyance until the authentication by the Superintendent at Calcutta could be accomplished.

4. Fifth Enactment was Regulation VII of 1809 and Regulation XII of 1810 was the sixth.

5. Seventh Enactment was Regulation XII of 1812. This required that all law and money papers should be written on stamped paper at the time of execution, or that the prescribed stamp be affixed to them within sixty days of their execution on pain of not being afterwards received

in evidence in any of the Courts of Judicature. At the same time it repealed the more liberal provisions of Clause 3, Section 6, Regulation VII of 1800.

6. Regulation XVI of 1813, the *Eighth Enactment* swept away all and any remaining difficulties connected with papers which had not been duly authenticated under Section 10, Regulation XIII of 1806, and declared those unauthenticated as equally valid *ab origine* as if they had been properly authenticated.

7. Regulation I of 1814 was passed on the 1st of January 1814, and was the first attempt made to consolidate all previous rules and orders upon the subject. It rescinded all existing fragments of the Regulations already noticed, and introduced a new schedule of fees which came in force from the 1st of May 1814.

8. Regulation X of 1814 introduced the following amendment of Section 9, Regulation I of 1814.

“Nothing contained in Section 9, Regulation I of 1814, or in any other Section of that Regulation, shall extend or be construed to extend to engagements which have been or may be contracted between Government and individuals for the provision of the Hon’ble Company’s investment or regarding the manufacture of salt or culture of the poppy and the manufacture of opium or the manufacture or sale of spirituous or fermented liquors or intoxicating drugs or any other matter in which Government may be one of the contracting parties. All such engagements, and likewise the various instruments mentioned in Section 9, Regulation I of 1814, to which Government has been or may be a party, shall be received and admitted in evidence in the different Courts of Judicature although written on plain or unstamped paper, anything contained in the said Regulation to the contrary notwithstanding.”

9. Regulation XXVI of 1814 was passed to amend Regulation I of 1814. Regulation XVI of 1824 was passed on the 18th November and came into force on the 1st January 1825. This *Enactment* being the *Twelfth* was the first real attempt to properly classify the different kinds of instruments and duties to which they were liable.

10. Regulation X of 1829 (*the Thirteenth Enactment*) was passed on the 16th June 1829 and came into force at once. It made some alterations in the law as laid down by Regulation XVI of 1824, which it repealed.

11. The *Fourteenth Enactment* was Act XXVIII of 1837. This simply enacted that the officer in charge of stamps need not be a Covenanted servant.

12. Act XX of 1858. During the Mutiny of 1857 a large quantity of stamp paper was plundered, and this Act was passed requiring all unused paper to be sent in to Calcutta to be authenticated by the Superintendent of Stamps at Calcutta or of the Collector, Deputy or Assistant of some district; and if not so authenticated, it was not to be received in any public office or Court of Justice.

13. Act XLI of 1858 was the *Sixteenth Enactment*. Regulation X of 1829 required that in all cases where a deed extended over more than one piece of paper, the signatures and seals of the parties must be upon that piece which bore the stamp. This Act made it a matter of indifference which paper bore the signatures, provided that in all deeds of this nature executed after the first day of January 1859, every sheet which contained any part of a document must be stamped with a Government stamp of at least one anna.

14. Act XXXVI of 1860 repealed everything relating to stamps in force up to the time of its passing (2nd August 1860). Act XL of 1860 was passed to amend Act XXXVI.

15. The *Nineteenth Enactment* was Act X of 1862. This Act repealed Act XXXVI of 1860.

16. Act XXVI of 1867 being the *Twenty-first Enactment* related with one exception to what are now known as Court-Fee Stamps and this brings us to the last Enactment which was Act XVIII of 1869. The following Sections of this Act will still be of general use:—Sections 3, 7, 9, 10, 11, 12, 13, 14, 18, 19, 47, 49 and 50.

ERRATUM.

Page 24, line 22, for object *read* objection.

Page 52 Instrument 14 line 4 for securi *read*
security.

Page 61 second column last line, for reversed *read*
reserved.

Page 64, Instrument 48, first line, for petitioner
read petition.

THE STAMP ACT, 1879.

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THE STAMP ACT.

No. I. OF 1879.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

[*Received the G.-G.'s assent on the 17th January 1879.*]

AN ACT TO CONSOLIDATE AND AMEND THE LAW
RELATING TO STAMPS.

CHAPTER 1.

PRELIMINARY.

Short title. 1. This Act may be called "The
Indian Stamp Act, 1879."

Local extent. It extends to the whole of British
India ;

Commencement. And it shall come into force on the
first day of April 1879.

2. On and after that day, the Acts specified in s. 2;
Repeal of enactments, the third schedule shall be repealed to Act
the extent specified in the third column XVIII.,
1869.
of the same schedule. But all rules made under the
General Stamp Act, 1869, and then in force, shall, so
far as they are consistent with this Act, be deemed to
have been made hereunder. And all references made to
the General Stamp Act, 1869, in enactments passed
subsequently thereto, shall be deemed to be made to
this Act.

Interpretation-clause. 3. In this Act, unless there is some-
thing repugnant in the subject or
context,—

" Banker." (1.) " Banker" includes a bank and any person acting as a banker :

" Bill of exchange." (2.) " Bill of exchange" includes a hundi :

(3.) " Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated :

" Bond." (4.) " Bond" means—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness, and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another :

Entries in account books of loans with the conditions of payment thereof attested by one or more witnesses, but not signed by the borrowers, cannot be regarded as bonds within the meaning of this clause. H. C. R. N. W. P. V. 2 p. 453 (*per* Turnbull, J.)

An agreement between Pleader and client for the payment of a certain sum by the latter on the termination of a case in a certain specified way, comes under the definition of a bond (*per* Lindsay and Cunningham, J. J.) Punjab Record vol. 5 page 210.

(5.) " Chargeable" means, as applied to an instrument executed or first executed after this Act comes into force chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, when several persons executed the instrument at different times, first executed :

"Cheque."

(6). "Cheque" means a bill of exchange drawn on a banker and payable on demand :

(7) "Chief Controlling Revenue Authority" means, "Chief Controlling Revenue Authority." in the Presidency Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue : in the Presidency of Bombay, outside Sind and the limits of the town of Bombay, a Revenue Commissioner : in Sind, the Commissioner : in the Panjab, the Financial Commissioner ; and elsewhere, the local Government or such officer as the local Government may, by notification in the official gazette, appoint in this behalf by name or in virtue of his office :

(8.) "Collector" means, within the limits of the towns of Calcutta, Madras, and Bombay, "Collector." the Collector of Calcutta, Madras, and Bombay respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the local Government may, by notification in the official gazette, appoint in this behalf by name or in virtue of his office :

(9) "Conveyance" means any instrument by which "Conveyance." property (whether moveable or immoveable) is transferred on sale :

An instrument, which purports to convey two or more properties for a sum of money, composed of items described in the instrument as the values of those properties, is simply a deed of sale coming under the definition of "conveyance" in Act XVIII of 1869, section 3. The stamped duty properly leviable upon such an instrument should, therefore, be calculated upon the aggregate sum specified therein, and not upon the various items composing that sum. *In re Tukaram Hari Atre* Bombay High Court Report vol. X page 354.

(10.) “Duly stamped,” as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed :

(11.) “Instrument of partition” means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue Authority ;

(12.) “Lease” means a lease of immovable property, and includes also

- (a) a patta,
- (b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immovable property,
- (c) any instrument by which tolls of any description are let, and
- (d) any writing on an application for a lease intended to signify that the application is granted :

(13.) “Mortgage-deed” includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers or creates, to or in favour of another, a right over specified property :

M., the manager of an indigo concern. under Section 243, Act VIII of 1859 by a deed dated the 1st February 1873, in which the owners of the concern joined which was duly registered, and which was made with the Court's sanction, mortgaged the concern and pledged and assigned the season crop to A and B, who were pardanishins, to secure repayment of a large sum of money consisting partly of the balance of previous loans from the husband of A and B, and partly of

a new loan to the extent of what was described in the deed as the estimated outlay of the season. The deed provided that A and B should have a first charge upon the indigo to be manufactured in the season in respect of the money secured thereby; that the indigo should be sold subject to A's and B's direction, that until the debt was paid M. should have no power to transfer sell, or mortgage the properties thereby mortgaged, pledged and assigned, or in any way to deal with the sale proceeds of the manufactured indigo; and that A and B should have full power to arrange for the appointment and dismissal of the servants of the concern, and for its better management. Previously to this, namely, in October 1872, M. had, in pursuance of his letter of appointment, filed an estimate for the season's outlay, largely exceeding the sum mentioned in the deed as the estimated outlay and had alleged that at the time of executing the mortgage deed, M. had informed one C who was the General Manager of A and B, and as such was the only medium of communication between M and A and B, that further advances would be necessary. According to M's account C told him that A and B were unable to make further advances, and that he could, if they were needed, obtain them on the usual terms from the plaintiffs, who were indigo brokers. In previous years during the life time of the husband of A and B, who had held similar mortgages of the concern and of the crop in those years to secure advances made by him such advances had, with the mortgagee's knowledge, been supplemented by loan obtained from the plaintiffs on the security of a first charge upon the crops to the extent of such loans; and it was alleged by M that it was upon the understanding that the same course was to be followed in the present instance, that the mortgage deed to A and B was executed.

The money advanced by the latter were wholly expended by April, when M. without communicating with A and B, and with only the verbal sanction of the Court, applied to the plaintiffs for money, and on the 26th April, the plaintiffs wrote to M. that they would make advances to the extent of Rs. 50,000, upon his assigning to them and giving them a first charge on the first 250 maunds of indigo to be manufactured in the season, and they enclosed a letter of assignment for M's signature which he duly signed, and returned to the plaintiffs on the 3rd May. This document bore a Rs. 2 stamp. In September and October, M. obtained further advances from the plaintiffs, in respect of other indigo, giving them similar letters of assignment which also bore Rs. 2 stamps. Of the moneys thus advanced by the plaintiffs Rs. 5,000, was paid to C for A and B by a bill drawn upon the plaintiffs. About Rs. 17,000, was applied towards the expenditure of the following season, and the remainder was applied in the production of the then season's indigo, and M stated that without it he could not have manufactured any indigo whatever that season. The indigo, when manufactured, was claimed by A and B under their mortgage, and their claim being resisted by M, who set up against them the plaintiffs' right, under the letters of assignment, A and B brought a suit to enforce the provisions of their mortgage-deed. In this suit the indigo was attached before judgment and sent to Calcutta for sale. The plaintiffs now sued A., B., M. and the holders for sale to establish their first charge in respect of their advances to M upon 360 maunds of the indigo on the strength of their letters of assignment.

1. *Held per* Garth, C. J., and Macpherson, J., that the letters of assignment to the plaintiffs were not mortgages within the definition of the Stamp Act XVIII of 1869, and that the proper stamps to be affixed to such documents is a stamp of 8 annas.

2. *Held per* Garth, C. J., Phear and Macpherson, J. J., that the alleged oral agreement between C. and M. as to obtaining loans, if necessary, from the plaintiffs and giving them a first charge on the season's indigo in respect of such loans was in direct contravention and defacement of the mortgage deed to A. and B. and was therefore inadmissible in evidence under section 92 of the evidence Act. I. L. R., C. S. vol. 2 page 58.

“Paper.” (14) “Paper” includes vellum, parchment, or any other material on which an instrument may be written :

“Policy of insurance.” (15.) “Policy of insurance” means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event :

It includes a life-policy :

“Power-of-attorney.” (16.) “Power-of-attorney” means any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act in the stead of the person executing it :

“Receipt.” (17.) “Receipt” means any note, memorandum, writing, or advertisement, whereby any money or any bill of exchange, cheque, or promissory note is acknowledged to have been received, or whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person :

“Schedule.” (18.) “Schedule” means a schedule to this Act annexed :

“Settlement.” (19.) “Settlement” means any non-testamentary disposition in writing, of moveable or immoveable property, made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or

(c) for any religious or charitable purpose :

It includes an agreement in writing to make such a disposition :

“ Vessel,” (20.) “ Vessel” means anything made for the conveyance by water of human beings or property :

“ Written,” “ writing,” (21.) “ Written” and “ writing” include every mode in which words or figures can be expressed upon paper.

We the undersigned Member of the Select Committee to which the Bill to consolidate and amend the law relating to Stamps and Court-fees was referred, have the honour to report that we have further considered the Bill in connection with the papers submitted,

2. We have, at the instance of some of the authorities consulted, restored the definitions of “ bottomry-bond,” “ letter of credit,” “ protest,” “ protest of the master of a ship, and “ respondentia-bond,” placing the five last in the schedule, where only the terms are found. F.R.S.C.

3. We have enlarged the definition of “ settlement” so as to include under it dispositions of property for charitable and religious purposes. F. R. S. C.

Schedules to be read as part of Act. (4.) The schedules and everything therein contained shall be read and construed as part of this Act.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

(5.) Subject to the exemptions contained in the second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say :—

Instruments chargeable with duty.

Ss. 4, 7, & 8, Act XVIII., 1869.

(a) every instrument mentioned in the first schedule, and which, not having been previously executed by any person, is executed in British India on or after the first day of April 1879 :

(b) every bill of exchange, cheque, or promissory note drawn or made out of British India on or after that day, and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in British India ; and

(c) every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

6. Where, in the case of any sale, lease, mortgage, or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage, or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

4. We have amended section 6 relating to the case of several instruments employed to effect a single transaction, by providing that each of the subordinate instruments shall bear a fixed duty of one rupee. The result of this amendment, we believe, will be to afford relief in all but an insignificant number of the transactions in question. F. R. S. C.

7. Any instrument comprising or relating to several 33 & 34
Vic.,
c. 97,
s. 8. distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matter, would be chargeable under this Act.

Subject to the provisions of the first clause of this S. 14, Act
XVIII.,
1869. section, an instrument so framed as to come within two or more of the descriptions in the first schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties ; but nothing herein contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty, and in respect of which the proper duty has been paid.

Power to reduce or
remit rates of duty. 8. The Governor-General in Council may, S. 16, Act
XVIII.,
1869. by order published in the *Gazette of India*,

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by, or in favour of, any particular class of persons, or by, or in favour of, any members of such class, are chargeable, and

(b) cancel or vary such order to the extent of the powers hereby given.

"We have, in section 8, given the Governor-General in Council power to exempt from stamp-duty retrospectively as well as prospectively." F. R. S. C.

B.—Of Stamps and the Mode of using them.

9. Except as otherwise expressly provided in this S. 5, Act
XVIII.,
1869 ; 33
& 34 Vic.,
c. 97, s. 6. Act, all duties with which any instruments are chargeable shall be paid, and

Duties how to be paid

THE STAMP ACT

such payment shall be indicated on such instruments, by means of stamp—

- (a) according to the provisions herein contained, or
- (b) when no such provision is applicable thereto—as the Governor-General in Council may by rule direct.

The rules under this section may, among other matters, regulate—

- (1) in the case of each kind of instrument—the description of stamps which may be used ;
- (2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;
- (3) in the case of hundis, the size of the paper on which they are written.

Instruments requiring to be stamped must be produced before the officer empowered to denote before they are executed. •

“ We have omitted sections 14 and 15 of the Bill as last settled by us and marked No. II., which provided for the number of impressed stamps to be used for the stamping of any instrument, and have, by an addition to section 9, given power to the Governor-General in Council to provide for the matter by rules.”
F. R. S. C.

Use of adhesive
stamps.

10. The following instruments may be stamped with adhesive stamps, namely:—

- (a) instruments chargeable with the duty of one anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets ;
- (b) bills of exchange, cheques, and promissory notes drawn or made out of British India ;
- (c) entry as an advocate, vakil, or attorney on the roll of a High Court ;
- (d) notarial acts ; and
- (e) transfers by endorsement of shares of public companies and associations.

"We have added to the list of documents in section 10 for which adhesive stamps may be used, "entry as an advocate, vakil, or attorney on the roll of any High Court" and "Notarial Acts." The former manifestly could be stamped only with an adhesive stamp, and it was represented to us that the present mode of stamping the latter is inconvenient in practice." F. R. S. C.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty, and which has been executed by any person, shall, when affixing such stamp, cancel the same so that it cannot be used again ;

ss. 31 & 33,
Act XVIII.,
1869 ; 33 &
34 Vic., c.
97, ss. 24, 36
50 & 66.

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

"We have modified section 11 regarding the cancellation of adhesive stamps so as to meet the cases in which the stamp is affixed before the instrument is executed or (as in the case of the cheques contained in the cheque books issued by some banks to their customers) before the instrument is completely drawn up. We have provided that in such cases the person first executing the instrument shall cancel the stamp." F. R. S. C.

12. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument, and cannot be used for, or applied to, any other instrument.

How instruments stamped with impressed stamps are to be written.

33 & 34
Vic., c. 97,
s. 7.

"We have confined section 12 to impressed stamps, as it has been represented to us that inconvenience would arise from its being applied to cheques, which are very commonly stamped by affixing an adhesive stamp to the back." F. R. S. C.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written : provided that nothing in this section shall prevent any

Only one instrument to be on same stamp.

endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods, the payment or delivery of which is secured thereby.

“ We have excepted certain receipts endorsed on instruments from the operation of the rule of section 13, which prohibits a second instrument being written on one piece of stamped paper.” F. R. S. C.

New.

Instrument written contrary to section 12 or 13 deemed unstamped.

14. Every instrument written in contravention of section twelve or thirteen shall be deemed to be unstamped.

“ To remove a doubt which might otherwise have been felt, we have added a section (14) providing that “ Every instrument written in contravention of section 12 or 13 shall be deemed to be unstamped.” Any hardship which might otherwise arise from this, we think, will be effectually prevented by the provisions of Chapter IV., empowering the Collector to remit the penalty in such cases, and by the provision for an allowance of the value of the stamp which we have now inserted in section 52.” F. R. S. C.

33 & 34 Vic.
c. 97, s. 14 ;
Act XVIII..
1869, sch.
II., No. 16.

15. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor-General in Council may by rule prescribe.

Denoting duty.

C.—Of the time of stamping Instruments.

16. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments executed in British India

17. Every instrument chargeable with duty executed only out of British India, and not

S. 24, Act XVIII., 1869.

Instruments other than bills, cheques, and notes executed out of British India.

being a bill of exchange, cheque, or promissory note, may be stamped within three months after it has been first re-

ceived in British India; or, where such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same, in such manner as the Governor-General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

An agreement was first executed in London by D and E and A the senior partner of a firm and stamped with the stamps required by the English Law, and it was subsequently executed in India by A and C the other two partners, but not stamped with an Indian stamp. *Held* the agreement was liable to Indian Stamp duty and not admissible in evidence without the proper duty and penalty under Act XVIII of 1869. L. Rep. 17, N. S. p. 114.

"We have at the instance of the Attorney-General, extended from two to three months the period within which a contract or bill, an instrument executed abroad and brought into British India may be stamped. L. R. 8 C.

18. The first holder in British India of any bill of exchange, cheque, or promissory note

S. 8, Act XVIII., 1869.

Bills, cheques, and notes drawn out of

drawn or made out of British India, shall,

before he presents the same for acceptance or payment, or endorses, transfers, or otherwise negotiates the same, in British India, affix thereto the proper stamp, and cancel the same.

Provided that if, at the time any such bill, cheque, or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affix-

33 & 34 Vict., c. 57, s. 51.

ed and cancelled. But nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

S. 10, Act
XVIII., 1869.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs, or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale :—

Conversion of
amount expressed in
certain currencies.

One pound sterling or pound currency is equivalent to ten rupees :

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees four annas.

33 & 34 Vic.,
c. 97, s. 11.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Conversion of
amount expressed in
other foreign currencies.

New.
33 & 34 Vic.,
c. 97, s. 12.

21. Where an instrument is chargeable with *ad valorem* 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.

Stock and market-
able securities how
to be valued.

New.
33 & 34 Vic.,
c. 97, s. 13.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall,

Effect of statement
of rate of exchange
or average price.

so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment

How far, for no consideration of debt, or subject to future payment, etc., to be charged.

S. 34, Act XVIII, 1869; 33 & 34 Vic., c. 73.

or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty.

Amount of Rs. 3,000 is paid by the Union Life Assurance Co. Limited to the Bank of India, for the purpose of paying the interest on the loan.

(1) The policy is by the Union Life Assurance Co. Limited within Life Policy for Rs. 3,000, with the Bank of India, Ltd. (1872) (Sd.) W. M. Thomson.

(2) "All claims of the Bank of India, Ltd. on the Union Life Assurance Co. Limited, have been satisfied in whole by the Bank of India, Ltd. to the Union Life Assurance Co. Limited."

(Sd.) T. D. P. Mayors

Bank of India, Ltd.

1st September 1878

(3) "I hereby assign an interest in the Union Life Policy for Rs. 3,000, to Messrs. B. & S. Sons and Co."

(Sd.) W. M. Thomson

15th March 1875

Held by Markby and Ainslie, J. J. that the first and third endorsements were valid, as collateral instruments under Sched. II, Clause 29 of the General Stamp Act, to a stamp of one rupee, and that the second endorsement was not chargeable with stamp duty, as it merely recites the fact of the debt having been satisfied in order to explain under what circumstances the policy is retransferred.

Held by Garth, C. J. that none of the endorsements were chargeable with duty.

In the matter of Thomson's Policy. I. L. R. C. S. Vol. III, page 347

S. 12, Act
XVIII,
1869; 33 & 34
Vic., c. 97,
s. 72.

25. Where an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument, or the consideration for such conveyance (as the case may be), shall, for the purposes of this Act, be deemed to be—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

S. 11, Act
XVIII,
1869; 1 Mal.
226.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have been, ascertained, at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instru-

Stamp where value
of subject-matter is
indeterminate.

ment of the same description, the stamp actually used would, at the date of such execution, have been sufficient.

27. The consideration (if any) and all other facts S. 34. Act XVIII., 1869; 33 & 34 Vic., c. 97, s. 10. and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Facts affecting duty to be set forth in instrument.

28. (a) Where any property has been contracted to New. 33 & 34 Vic., c. 97, s. 74. be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts 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 is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

Direction as to duty in case of certain conveyances.

(b.) Where 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 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 shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(c.) 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

chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(d.) Where a person, having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser; without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(e.) 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 paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller; or where such duty would exceed five rupees, with a duty of five rupees.

Where a document purporting to be a conveyance, and for only one consideration, contains words which merely express, though very informally, the usual covenants for title which very properly drawn English conveyance contains, those words cannot be considered as constituting an indemnity bond so as to render the document liable to stamp duty as an indemnity bond in addition to the stamp duty to which it is liable as a conveyance, I. L. R. 1876 M. S. 133.

E.—Duty by whom payable.

29. In the absence of an agreement to the contrary, S. 6, Act XVIII., 1869.
the expense of providing the proper stamp shall be borne—
Duties by whom payable.

(a) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57, and 60 (a) and (b) of the first schedule—by the person drawing, making, or executing such instrument :

(b) in the case of a policy of insurance—by the insured :

(c) in the case of a conveyance—by the grantee : in the case of a lease or agreement to lease—by the lessee or intended lessee :

(d) in the case of a counterpart of a lease—by the lessor :

(e) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a Revenue Authority, in such proportion as such Authority directs :

(f) in the case of an instrument of exchange—by the parties in equal shares : and

(g) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

"We have, in section 29, added a clause (d) providing that the cost of the stamp for a counterpart of a lease shall be borne by the lessor, and a clause (e) empowering a Revenue Authority in doing a partition to direct in what proportion the stamp chargeable in respect of such partition shall be borne by the co-owners." F. R. S. C.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

30. When any instrument, whether executed or Act XVIII. 1869, s. 39
not, and whether previously stamped or omitting
not, is brought to the Collector, and the and of the
person bringing it applies to have the opinion of that penalty if
any, incurred through the

Adjudication as to proper stamp.

instrument having been executed on insufficiently stamped paper." officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable :

* 33 and 34
Vic., c. 97. s
20.

* and may, for that purpose, require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

In determining what provision of the stamp laws is applicable to a particular instrument, regard must be had to the real nature of the instrument, and not to the title which may have been given to it by the parties, if the contents of the instrument show that the title was a misnomer. H. C. R. Bombay Vol. 3 page 94.

31. When an instrument brought to the Collector under section thirty is, in his opinion, one of a description chargeable with duty, and

Certificate by Collector.

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section thirty, or such a sum as, with a duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Nothing in this section shall authorize the Collector to endorse—

any instrument executed or first executed in British India, and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India, and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, bill of exchange or promissory note, when brought

to him after the drawing or execution thereof on paper not duly stamped.

Ss. 22 & 23,
Act XVIII.,
1869.

32. Every payment of a fee under section thirty shall be made in stamps, or cash, as the Governor-General in Council may by rule direct.

Payment of fees under
section 30 how made.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

33. Every person having, by law or consent of parties, authority to receive evidence, and

Examination and
impounding of in-
struments.

every person in charge of a public office except an officer of police,

before whom any instrument chargeable, in his opinion, with duty, is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable, and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates' Act :

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The local Government may, from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

"A question having been raised as to whether a public officer would be bound by section 34 of the Bill No 11, to institute any inquiry regarding an instrument produced before him with a view to ascertaining whether such instrument was duly stamped, we have made it clear in section 33 of the amended Bill that all that he is bound to do is to examine such an instrument with a view to ascertaining whether it bears a stamp of the proper value and description. If, however, it should happen that the instrument was not duly stamped owing to some circumstance which did not appear on the face of it, *as, e.g.* if a stamp had been illegally affixed after execution, and this fact should appear incidentally in the course of some proceeding before the officer, it would, of course, be his duty to impound it and proceed in regard to it in the manner prescribed by the Act."

F. R. S. C.

34. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having, by law or consent of parties, authority to receive evidence, or shall be acted upon, registered, or authenticated by any such person or by any public officer, unless such instrument is duly stamped.

Ss. 18, 19, 20 & 28, Act XVIII, 1869.

Instruments not duly stamped inadmissible in evidence &c.

PROVIDED

Provided that—

1st, any such instrument, not being instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty

Instruments admissible on payment of duty and penalty.

or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion :

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates' Act ;

3rd, when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of instrument not to be questioned.

A Promissory Note upon a one anna stamp dated on August 1870, provided for the repayment of the amount mentioned in it on or before the 12th July 1871. *Held*, that the note was receivable in evidence upon payment of a penalty. Madras H. C. R. 174 page 361.

An appellate court cannot reject a document as an unstamped or an insufficiently stamped document which has been admitted by the lower courts. *Id.* Vol. 5 page 205.

The Madras High Court have ruled that where objection is taken for the first time in special appeal that a document which should have been stamped has been admitted by the two lower Courts unstamped the High Court is bound to take notice and to require payment of the stamp duty and penalty or to reject the document. *Id.* C. R. M. Vol. 3 page 295.

The Judicial Committee of Oudh in *Chowdhry Mohtaza Hussain v. Musamat Bachee* &c. has ruled that the words "stamp of a value not less than the amount of the duty with which it is chargeable" in section 18 limit the interference of civil courts with Section 290 (section 34 of the New Act) to cases of insufficient stamp duty. The fact of an instrument having been written on a wrong colored stamp does not affect its admissibility in evidence.

A deed purporting to appoint a new trustee, was when introduced in evidence covered with a sufficient stamp according to the law in force at the time when it was dated, but it was proved to have been executed some time previously and the stamp, according to the law then in force was sufficient. *Id.* on the construction of 33 and 34 Viet. c. 97 ss. 15, 16 and 17, that the deed could not be received in evidence. *Gatty v. Fry* (2 Ex. D. 265) distinguished. *Clark Roche and others*. L. R. 32, B. D. 170.

Query.—Although there have been decisions in the English Courts upon the stamp Act which support the contention that a defendant's written statement and deposition may contain such an admission as renders it unnecessary for the plaintiff to put the written contract in evidence, yet do not the words of Section 18 Act XVIII of 1869 prevent such a contention? S. 21 W. R. 1.

A Court to which a document is tendered in evidence ought not to reject it, unless it clearly appears that there was an intention to evade the payment of stamp duty. 3. B. H. R. O. C. J. 153.

A bond stamped subsequently to the institution of the suit is valid, under the provisions of the Civil Procedure Code and of the Stamp Acts of 1860 and 1862 : provided it be properly stamped when produced at the first hearing of the suit, and when the Court is asked to receive it in evidence." 3. B. H. C. R. 92.

A Judge has no authority to admit an unstamped document in evidence, except under the conditions prescribed in the Stamp Act, even where it was executed before the date when the Act came into operation. 21. W. R. 446.

Where a contract was reduced to writing, and the only cause of action between the parties arises out of the document, no oral evidence is admissible to prove the terms of the contract, therefore it was held by the Calcutta High Court in a case (24 W. R. 88 and 89.) in which the Sub-Judge admitted an unstamped document after payment of the duty and penalty under Section 20 Act XVIII. of 1869, and endorsed on it a certificate that the proper stamp had been levied ; but found out afterwards that the original omission was owing to an intention to evade payment of stamp duty, that the certificate was not such as was contemplated by S. 20, and did not make the document admissible, and that the Judge ought, under S. 22, to have impounded the document and sent it to the Collector.

Where a Court of first instance, treating an unstamped promissory note, the after stamping of which was inadmissible, as a bond, received such instrument in evidence, on payment of the stamp-duty chargeable on it as a bond and of the penalty, held that the reception of such instrument by such court, being an irregularity not affecting the merits of the case, was no ground for reversing the decree of such Court when the same was appealed from." 1. L. R. A. S. Vol. 1878. page 725.

The question of the admissibility of an insufficiently stamped document once admitted as evidence by a Court can form no valid ground of appeal." 1. L. R. C. S. Vol. 1878. page 787.

The following document, bearing a one-anna stamp, was admitted by the Court of first instance and accepted by the lower Appellate Court as bearing a sufficient stamp — " My dear sister M. Be it known that Rs. 750 on account of the former note of hand and Rs. 225 of to day's date, amounting in all to Rs. 975, are due to you by me. I promise to pay you this sum in two months. I am already negotiating for a loan from another place. If the sum is not paid, no harm will come to your money, and for your satisfaction and peace this note of hand is given to you. Keep this as a voucher and consider the former note of no use. At the time of payment this note is to be returned to me. The document was a promissory note and should have borne a stamp of 12 annas.

The deficiency in the stamp could not have been supplied when the document was offered in evidence.

The insufficiency of the stamp was the only ground urged in special appeal. The appeal was held to fail. H. C. R. 1875 page 121. N. W. P.

A District Court refused to allow under Act XVIII. of 1869, Section 20, an insufficiently stamped document to be admitted on payment of the full amount of stamp duty, and the penalty, on the ground that it was wilfully executed in fraud of the stamp law. Held that the High Court cannot in special appeal question the correctness of the District Court's refusal. *Ganbhirmal v. Chejmal* H. C. R. Bombay Vol. X. page 406.

2. Where an agreement between a mortgagor and mortgagee contains a stipulation that the mortgagor should at the time of redemption make good the losses arising to the mortgagee from the default of tenants which it had been agreed the mortgagee might put in, in case the mortgagor made default in payment of the rent agreed upon for the term of the mortgage ; such an agreement is

not a lease, or the counterpart of lease, within the meaning of Reg : XVIII. of 1827 Section 10 clause 3 but in a contract of indemnity against losses to be incurred after the determination of the lease, which not having any operation so long as the lease is in existence, is, therefore, not exempt from stamp duty under that Regulation. Where an appellant has not tendered the stamp duty and penalty on a document which the Courts below have held to be insufficiently stamped, the High Court will not allow him to do so in special appeal. H. C. R. Bombay Vol. X. page 441.

3. Under Regulation XVIII. of 1827, a party has a right to have stamped, on payment of the prescribed penalty, an instrument executed before 1st January 1870, and a Civil Court should receive such instrument in evidence on being stamped, and cannot reject it on the ground of intention by the party to evade the stamp duty." H. C. R. Bombay Vol. X. page 358.

The plaintiff's drafted the following letter, dated 5th June, 1871, and sent it to the defendant for signature :—" I have this day sold to you 500 to 700 cases of first quality of hog's lard of my manufacture and mark, at Rs. 43 per case of eight tins of ten seers each, or two bazar maunds nett, as usual, delivery to be given and taken in all twelve months, as it is prepared, by instalments of forty to sixty cases at a time from my manufactory, commencing from this day. Cash on delivery of each lot. I engage not to sell any hog's lard to any party besides yourselves, nor to make any shipments during the term of this contract without first obtaining your consent in writing, or I will render myself liable to yourselves to a penalty of Rs. 5,000 by way of liquidated damages, without prejudice to your other rights. Should I fail to deliver the hog's lard to you according to this contract, nor should you fail to take delivery in any month of any of the instalments of hog's lard when ready and after I have given you notice in writing, you must render yourselves similarly liable to a penalty of Rs. 5,000 as and by way of liquidated damages." This letter was signed by the defendant, and, as the plaintiffs alleged, formed the contract between them. The letter bore a stamp of one anna. In an action for a breach of the contract, it was tendered in evidence by the plaintiffs, and objection was taken to it that it was insufficiently stamped, that it required an *ad valorem* stamp as being a bond for the payment of money under Act XVIII. of 1869, Sch. 1. *Held* it was a document which required an eight-anna stamp only under clause 11 of schedule II of the Act, and the document was admitted on payment of the stamp and penalty." B. L. R. Vol. VII. page 510.

The Civil Court is authorized, under Act XVIII of 1869, to receive the proper amount of stamp which should have been affixed on a plaintiff's patta under the law in force when it was executed." B. L. R. Vol. VI. Ap. 17.

In a suit brought on the following document dated 25th October 1869 :—Whereas I defendant, have borrowed Rs. 1,500 from you without interest without a bond, hence I declare that I shall repay, on or before 15th Falgun, the whole amount as one sum and take back this chitta : should I fail to repay the amount in question on the above date, I will pay interest on the same,"—it was objected that the document being unstamped under Section 3, Act X. of 1862, the stamp Act in force at the date of its execution, it was inadmissible in evidence ; and it was contended for the plaintiff that it was admissible on payment of the penalty. The Judge applied section 28 Act XVIII. of 1869, and held he had no power to receive it on payment of the penalty. *Held*, the Judge was bound to comply with Act XVIII. of 1869, and was therefore right in refusing to receive the document. *Held* also, the document was a promissory note within Section 28 Act XVIII. of 1869. B. L. R. Vol. XIII. Ap. 33.

The decision of a court of first instance as to the admissibility of a document subject to the payment of stamp duty is final, and cannot be reviewed by an appellate court. Madras H. C. R. Vol. II. page 322.

A Civil Court is authorized, under the Stamp Law, to receive the proper amount of stamp duty under the law in force when the instrument was executed not only in cases of insufficiency of stamp, but also in cases where no stamp was used. B. L. R. Vol. VI. page 117.

The Madras High Court have ruled that it is open to an Appellate Court to consider the question whether a document which a court of first instance has declared liable to be stamped is properly so liable. Madras H. C. R. Vol. III. page 71.

A Civil or Revenue Court must exact the full prescribed penalty. A Collector alone has (under Section 37 of the present Act agreeably to Section 24 Act XVIII. of 1869) the power of remitting the whole or any portion of such penalty; the Chief Controlling Revenue Authority may upon application in writing within one year refund such penalty wholly or in part. This section of the new Act is not now only confined to a Civil Court, it means any Court.

35. When person impounding an instrument under section thirty-three has, by law or consent of parties, authority to receive evidence, and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

"We have, in section 35, provided that any person receiving a document in evidence under section 34 on payment of duty shall send the amount of such duty and of the penalty levied with it to the Collector." F. R. S. C.

36. When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-five, he may, if he thinks fit, upon application made to him in this behalf, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or when such instrument has been impounded only because it has been written in contravention of section twelve or section thirteen, he may refund the penalty so paid.

Collector's power to refund penalty paid under section 35, 1st para.

Sec. 24 & 28,
Act XVIII.,
1869.

37. When the Collector impounds any instrument under section thirty-three, or receives any instrument sent to him under the second clause of section thirty-five, he shall adopt the following procedure :—

Collector's power to stamp instruments impounded.

(a.) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall, upon application made to him in this behalf, deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

If the Collector is of opinion that such instrument is chargeable with duty, and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees ; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit :

Provided that, when such instrument has been impounded only because it has been written in contravention of section twelve or section 13, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (a) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

38. If any instrument chargeable with duty, and ss. 24 & 28, Act XVIII, 1869. which is not duly stamped, is produced by any person in his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake, or urgent necessity, he may, instead of proceeding under sections thirty-three and thirty-seven, receive such amount, and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-four, section thirty-seven, or section thirty-eight, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify by endorsement thereon that the proper duty, or (as the case may be) the proper duty and penalty (stating the amount of each), have been levied in respect thereof, and the name and residence of the person paying them.

Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted

upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section thirty-four shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary, and has not cancelled such certificate :

Provided also that nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

40. The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument :

Prosecution for offence
against stamp-law.

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Proviso.

"Exception having been taken to the proviso to section 40 of Bill No. II., we have recast it (see section 39 of the amended Bill), and it now runs as follows :—

"Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34 shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate." F. R. S. C.

41. When any duty or penalty has been paid, under section thirty-four, section thirty-seven, or section thirty-eight, by any person in respect of an instrument, and by agreement, or under the provisions of section

Persons paying duty
or penalty may recover
same in certain cases.

twenty-nine or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid ; and for the purpose of such recovery any certificate granted in respect of such instrument under section thirty-nine shall be conclusive evidence of the matters therein certified.

42. When any penalty is paid under section thirty-
Remission of penalty paid under section 34 or 37. four or thirty-seven, the Chief Con-
§. 42, Act XVIII., 1869. trolling Revenue Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

43. If any instrument sent to a Collector under the
Non-liability for loss of instruments sent under section 35. second paragraph of section thirty-
§. 25, Act XVIII., 1869. five be lost, destroyed, or damaged during transmission, the person sending the same shall not be liable for such loss, destruction, or damage.

When any instrument is about to be so sent, the
Copy may be made of instrument so sent. person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person, and authenticated by the person impounding such instrument.

44. When any bill of exchange or promissory note
Power of payee to chargeable with the duty of one an-
unstamped. na, or any cheque, is presented for payment unstamped, the person to
§. 26, Act XVIII., 1869.

whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note, or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note, or cheque, shall, so far as respects the duty, be deemed good and valid.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note, or cheque.

CHAPTER V.

REFERENCE AND REVISION.

45. If any Collector acting under section thirty, section thirty-seven, or section thirty-eight, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty (if any) in conformity with such decision.

S. 41, Act
XVIII.,
1869.

46. The Chief Controlling Revenue Authority may state any case referred to it under section forty-five or otherwise coming to its notice, and refer such case with its own opinion thereon, if the case arises in the territories for the

Reference by Revenue
Authority to High Court.

time being administered by the Governor of Fort Saint George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be : if it arises in the North-Western Provinces or Oudh—to the High Court of Judicature for the North-Western Provinces : if it arises in the territories for the time being administered by the Lieutenant-Governor of the Panjab—to the Chief Court of the Panjab : if it arises in the Central Provinces—to the High Court of Judicature at Bombay ; and if it arises in any other part of British India—to the High Court of Judicature at Fort William.

Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

A vakalatnama authorizing a pleader to receive during the course of a suit which he has been empowered to conduct, money or documents receivable by his client in the ordinary course of such suit, or in consequence of the order or decree of the court in such suit, does not require a stamp under Act XVIII of 1869. *Reference from the Board of Revenue N. W. P. under section 41. I. L. R. C. S. Vol. 1878 page 767.*

47. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

48. The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon, containing the grounds on

Power of Court to call for further particulars.

Procedure in disposing of reference.

which such decision is founded : and it shall send to the Revenue Authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving such copy, dispose of the case conformably to such judgment.

49. If any Court other than a Court mentioned in section forty-six feels doubt as to the amount of duty to be paid in respect of any instrument under the first proviso to section thirty-four, the Judge may draw up a statement of the case, and refer it with his own opinion thereon for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue Authority, he would, under section forty-six, refer the same, and such Court shall deal with the case as if it had been referred under section forty-six, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

References made under this section, when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court shall be made through the Court immediately superior.

" We have added a provision in section 49 requiring references made by a Revenue Court under that section to be made through the Court immediately superior to it." F. R. S. C.

50. When any Court, in the exercise of civil or revenue jurisdiction, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under

Revision of certain decisions of Court regarding the sufficiency of stamps.

section thirty-four, the Court to which appeals lie from, or references are made by, such first-mentioned Court, may, of its own motion, or on the application of the Collector, take such order into consideration ; and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section thirty-four, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded, or is otherwise in the possession of such Court, shall also send him such instrument ; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section thirty-nine, or in section forty, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section thirty-four, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty :

— Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section thirty-nine.

" We have rendered Revenue Courts subject to the power of revision conferred by section 50." F. R. S. C.

CHAPTER VI.

ALLOWANCES FOR SPOILED STAMPS AND STAMPS NO LONGER REQUIRED.

s. 45 & 46,
ct XVIII.,
869; 83 &
4 Vic., c.
3, s. 14.

51. Subject to such rules as may be made by the Governor-General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the case hereinafter mentioned, namely :—

(a.) The stamp on any paper inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any person :

(b). The stamp used or intended to be used for any bill of exchange, cheque, or promissory note, signed by, or on behalf of, the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued, or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any stamp is

impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(c.) The stamp used or intended to be used for any bill of exchange, cheque, or promissory note signed by, or on behalf of, the drawer thereof, but which, from any omission or error, has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance, or accepted or endorsed, or, being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange, cheque, or promissory note, is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque, or note :

(d.) The stamp used for any of the following instruments, that is to say :—

- (1) an instrument executed by any party thereto, but afterwards found by a competent Court to be absolutely void in law from the beginning :
- (2) an instrument executed by any person, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :
- (3) an instrument executed by any party thereto, but which, by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to

THE STAMP ACT

effect the intended transaction in the form proposed :

- (4) an instrument executed by any party thereto, which, for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :
- (5) an instrument executed by any party thereto, which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :
- (6) an instrument executed by any party thereto, which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped :
- (7) an instrument executed by any party thereto, which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument, made between the same parties and for the same purpose, is executed and duly stamped :

Provided that in the case of an executed instrument—

- (a) such instrument is given up to be cancelled :
- (b) the application for relief is made within six months after the date of the instrument, or if it is not dated, within six months after the execution thereof by the person by whom it was first

or alone executed, except where, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India :

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

" We have omitted the latter portion of clause (a) of section 53 of the Bill No. II, (now section 51) and clause (c) of the first proviso to the same section, as unnecessary in this country."

" We have made the period of six months within which, under the second proviso to the same section, certain applications for allowances for spoiled stamps must be made, to run from the date on which the stamp is spoiled, instead of from the date of purchase." F. R. S. C.

52. When any person has inadvertently used, for ^{33 & 34 Vic., c. 98, s. 15.} an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or when any stamp used for an instrument has been inadvertently rendered useless under section fourteen owing to such instrument having been written in contravention of the provisions of section twelve, the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and

Allowance for misused stamps.

upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

33 & 34 Vic.,
c. 98, s. 16.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give, in lieu thereof, (a) other stamps of the same description and value, or, (b) if required, and he thinks fit, stamps of any other description to the same amount in value, or (c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

33 & 34 Vic.,
c. 98, s. 19.

54. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction that it was purchased by such person with a *bona fide* intention to use it, and that he has paid the full price thereof, and that it was so purchased within the period of six months next preceding the date on which it is so delivered.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

S. 48, Act
XVIII,
1869.

55. The local Government, subject to the control of the Governor-General in Council, may make rules consistent herewith for regulating the supply and sale of stamps and stamped

papers, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

"We have transferred the power of making rules regarding the sale of stamps from the Governor-General in Council to the local Government," F. R. S. C.

56. The Governor-General in Council may make

Power to make rules generally to carry out Act. rules consistent herewith to carry out generally the purposes of this Act.

57. All powers to make appointments, rules, and

Certain powers exerciseable from time to time. orders conferred by this Act, may be exercised from time to time as occasion requires.

All rules made under this Act other than rules made

Publication of rules. under section fifty-five shall be published in the *Gazette of India*, and all rules made under section fifty-five shall be published in the local gazette. All rules published as required by this section shall, upon such publication, have the force of law.

58. Any person receiving any money exceeding ^{S. 27, A. XVIII., 1869.}

Obligation to give receipt in certain cases.

twenty rupees in amount, or any bill of exchange, cheque, or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value, shall on demand by the person paying or delivering such money, bill, cheque, note, or property, give a duly stamped receipt for the same.

59. Nothing herein contained shall be deemed to ^{S. 17, XVIII., 1869.}

Saving as to Court-fees.

affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

"We have inserted a section (59) like section 17 of the present Stamp Act, saving the provisions of the law relating to Court-fees," F. R. S. C.

S. 51, Act
XVIII,
1869.

60. Every local Government shall cause this Act to be carefully translated into the principal vernacular languages of the territories administered by it. A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

Act to be translated,
indexed, and sold

CHAPTER VIII.

CRIMINAL OFFENCES AND PROCEDURE.

Ss. 29 & 30,
Act XVIII,
1869.

61. Any person drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, or receiving payment of, or in any manner negotiating, any bill of exchange, cheque, or promissory note without the same being duly stamped,

Penalty for executing,
&c., instrument not duly
stamped.

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section thirty-four section thirty-seven, or section fifty, the amount of such penalty in reduction of the fine (if any) subse-

quently imposed under this section in respect of the same instrument upon the person who paid such penalty.

Intention to evade payment is not an essential ingredient in the offence made punishable by this section. The second clause of the section applies only to "any person making, executing, or signing otherwise than as a witness any other instrument, without the same being duly stamped, and a donee is therefore not liable under it. H. C. R. M. Vol. VI. Page. 5.

The accused was prosecuted under Act XVIII of 1869, section 29, for executing a document on insufficiently stamped paper. The document recited that, "whereas A. and B. have sold to me 2 gandas 3 couries of land under a kabala, dated the 9th of Jeyt 1283, in lien of a consideration of Rs. 695, and whereas I have returned to the vendors in all 4 cottas of land worth about Rs. 25, and whereas in lieu of the said land the said vendors have given me 4 cottas of zeraït land held by them, now I my heirs shall have no objection or contest whatever in regard to the mutual exchange of lands between the vendors and me, the purchaser; hence, I have executed this chitti by way conveyance or deed of exchange, which may be of service when required. This document bore a stamp of eight annas, and it was executed only by the accused and presented by him for registration:

Held, that the document was an instrument of transfer within the meaning of Article 38, Schedule II, Act XVIII of 1869.

Held also, that a Magistrate is bound, for the purpose of ascertaining whether any and what penalty should be imposed, to consider whether a person prosecuted under Section 29, Act XVIII of 1869, had any intention to defraud by evading payment of stamp duty. I. L. 1877, C. S. page 399.

62. Any person required by section eleven to cancel ^{S. 33, Act XVIII, 1869,} an adhesive stamp, and failing to cancel such stamp, in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

63. Any person who, with intent to defraud the ^{Ss. 34 & 35, Act XVIII, 1869.} Government of any duty,
 Penalty for omission to comply with provisions of section 27. (a) executes any instrument in which all the facts and circumstance required by section twenty-seven to be set forth in such instrument are not fully and truly set forth, or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances,

shall be punished with fine which may extend to five thousand rupees.

S. 27, Act
XVIII.,
1869; 83 &
84 Vic., c.
97, s. 123.

64. Any person who, being required under section fifty-eight to give a receipt, refuses or neglects to give the same, or who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

83 & 84 Vic.,
c. 97, s. 118.

65. Every 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; or

Penalty for not making out policy,

(b) makes, executes, or delivers out any policy which is not duly stamped, or pays or allows account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

shall be punished with fine which may extend to two hundred rupees.

S. 32, Act
XVIII.,
1869.

66. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

punished with fine which may extend to one thousand rupees.

"We have raised the penalty in section 66 from five hundred to one thousand rupees, and restored in section 67 the penalty for post-dating bills and notes imposed by section 13 of Act X of 1862." F. R. S. C.

67. Whoever, with intent to defraud the Government ^{S. 13, Act X., 1862,} of duty, draws, makes, or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made, and whoever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment of, such bill or note or in any manner negotiates the same, and whoever, with the like intent, practices or is concerned in any act, contrivance, or device ^{33 & 34 Vic c. 97, s. 85 (c).} not specially provided for by this Act or any other law for the time being in force, shall be punished with fine which may extend to one thousand rupees.

68. Any person appointed to sell stamps who disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

"It having been represented to us that the permission accorded to private persons by section 66 of the Bill No II to sell stamps purchased in good faith for their own private use, and no longer required, would facilitate a practice which prevails in some parts of the country of keeping stocks of old stamps for sale to persons desiring to forge instruments of old date, we have, in section 68 of the amended Bill, withdrawn that permission, and have substituted for it (in section 54) a provision borrowed from the English Act of 1870, requiring the Collector to purchase back stamps held by private persons, and no longer required to them." F. R. S. C.

69. No prosecution in respect of any offence punishable under this Act, or the General ^{S. 43, Act XVIII., 1869.} Stamp Act, 1869, or any Act thereby

Institution and conduct of prosecutions.

repealed, shall be instituted without the sanction of the Collector or such other officer as the local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue Authority, or any officer authorized by it in this behalf, may stay any such prosecution, or compound any such offence.

A Magistrate who has been authorized by the Collector of a district, under section 43 of the Stamp Act, to prosecute offenders against the stamp laws, is not competent also to try persons whom he prosecutes. The Collector should appoint some person other than a Magistrate to conduct the prosecutions. I. L. R. Vol. 1878 page 622. C. S.

70. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Jurisdiction of Magistrates.

"The provision of the Bill No 11, relating to the jurisdiction to try offences against the stamp-law, having been objected to on the ground that it seemed to deprive the Court of Session of power to try such offences, we have now simply provided (in section 70) that no Magistrate whose powers are less than of a Magistrate of the second class shall try such offences. Subject to this, the ordinary provisions of the law defining the jurisdiction of the Criminal Courts will apply." F. R. S. C.

S. 44, Act
XVIII.,
1869.

71. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as in any district or presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Place of trial.

72. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it.

Operation of other laws not barred

Provided that no person shall be punished twice for the same offence.

SCHEDULE I.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper, when such book or paper is left in the creditors possession.	One anna.
2. ADMINISTRATION BOND	The same duty as a Security-Bond (No 39).
ADOPTION DEED See <i>Instrument</i> , No 38.	
3. AFFIDAVIT or declaration in writing on oath or affirmation made before a person authorized by law to administer an oath	One rupee.
See <i>Exemptions</i> , Schedule (II No 1).	
4. AGREEMENT TO LEASE	The same duty as a Lease (No 39).

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT... (a.) If relating to the sale of any Government security, share in a Company or Association, or Bill of Exchange ...</p> <p>(b.) Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the right so relinquished ...</p> <p>(c.) If not otherwise provided for by this Act ...</p> <p>See <i>Exemptions</i>, Schedule II (No. 2).</p>	<p>One anna.</p> <p>Four annas.</p> <p>Eight annas.</p>
<p>6. APPOINTMENT, in execution of a power, whether of trustees or of property moveable or immoveable, where made by any writing not being a Will</p>	<p>Fifteen rupees.</p>
<p>7. APPRAISEMENT or valuation made otherwise than under an order of the Court in the course of a suit</p> <p>See <i>Exemptions</i>, Schedule II (Nos. 3 & 4).</p>	<p>The same duty as an Award (No. 10.)</p>

SCHEDULE I.—(*continued*).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
APPRENTICESHIP DEED ... See <i>Instrument</i> , No. 31.	
8. ARTICLES OF ASSOCIATION OF A COMPANY	Twenty-five rupees.
9. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court	Two hundred and fifty rupees.
ASSIGNMENT { See <i>Conveyance</i> , No. 21 ; and <i>Transfer</i> , No. 60.	
AUTHORITY TO ADOPT ... See <i>Instrument</i> , No. 38.	
10. AWARD , that (a.) Where the amount is to say, any or value of the pro- decision in writing perty to which the by an arbitrator or award relates as set umpire on a refer- forth in such award ence made other- does not exceed Rs. wise than by an 1,000 ... order of the Court in the course of a suit ... (b.) In any other case	The same duty as a Bond (No. 13) for such amount. Five rupees.
See <i>Exemption</i> , Schedule II (No. 6).	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.					
11. BILL OF EXCHANGE OR PROMISSORY NOTE, not being a cheque, bond, bank-note, or currency-note ...	(a). When payable on demand and the amount exceeds Rs. 20 ...	One anna.					
	(b). When payable otherwise than on demand, but not more than one year after date or sight.	If drawn singly.		If drawn in set of two, for each part of the set.		If drawn in set of three, for each part of the set.	
	If the amount of the bill or note does not exceed Rs. 200	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
		0	2	0	0	1	0
	If it exceeds 200 and does not exceed 400	0	4	0	0	2	0
	„ 400 600	0	6	0	0	3	0
	„ 600 1,000	0	10	0	0	5	0
	„ 1,000 1,200	0	12	0	0	6	0
	„ 1,200 1,600	1	0	0	0	8	0
	„ 1,600 2,500	1	8	0	0	12	0
	For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000...	1	8	0	0	12	0
	For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000	3	0	0	1	8	0
	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000 ...	6	0	0	3	0	0
		6	0	0	3	0	0

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
11. BILL OF EX- CHANGE O R PROMISSO R Y NOTE, &c.—<i>ctd.</i>	<i>(c).</i> When payable at more than one year after date or sight
12. BILL OF LAD- ING. Four annas.
See <i>Exemption</i> , Sche- dule II. (No. 7).	If a Bill of Lading is drawn in parts, the proper stamp there- for must be borne by each one of the set.
13. BOND (not otherwise provid- ed for by this Act)	Rs. When the amount or value secur- ed does not exceed 10 When such amount or value exceeds Rs. 10, but does not ex- ceed 50
See <i>Administration Bond</i> (No. 2). <i>Cus- toms Bond</i> (No. 24), <i>Indemnity Bond</i> (No. 28), <i>Security Bond</i> (No. 14.)	50 When such amount or value ex- ceeds Rs. 50, but does not ceed 100
See <i>Exemptions Schedule II</i> (No. 8).	100 and for every Rs. 100 or part thereof in excess of Rs. 100 up to 1,000 and for every Rs. 500 or part thereof in excess of 1,000
	Eight annas. Eight annas. Two rupees eight annas.

THE STAMP ACT

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>14. BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money received by virtue thereof.</p> <p>See <i>E. em tions</i>, Schedule II Nos. (8 and 12).</p>	<p>(a). When the Rs. amount secured does not exceed 1,000</p> <p>The same duty as a Bond (No 13).</p> <p>(b). In any other case</p> <p>Five rupees.</p>
<p>15. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.</p>	<p>The same duty as a Bond (No 13).</p>
<p>16. CERTIFICATE OF SALE, granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue officer.</p>	<p>The same duty as a Conveyance (No. 21) for a consideration equal to the amount of the purchase-money.</p>

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
17. CERTIFICATE OR OTHER DO- CUMENT evidenc- ing the right or title of the holder there- of, or any other person, either to any shares, scrip, or stock in or of any Company or As- sociation, or to be- come proprietor of shares, scrip, or stock in or of any Company or Asso- ciation 	One anna.
18. CHARTER- PARTY, that is to say, any instrument (except an agree- ment for the hire of a tug-steam-er) whereby a vessel or some specified prin- cipal part thereof is let for the specified purposes of the charterer 	One rupee.
19. CHEQUE for an amount exceeding twenty rupees 	One anna.
20. COMPOSITION DEED, that is to say, any instrument executed by a debt- or whereby he con- veys his property	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.								
<p>for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors</p> <p>... ..</p>	<p>Ten rupees.</p>								
<p>21. CONVEYANCE, not being a TRANSFER mentioned in No. 60.</p> <p>See <i>Exemptions</i>, Schedule II (Nos. 5 and 17).</p>	<table border="0"> <tr> <td data-bbox="362 822 655 1057"> <p>When the amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50</p> </td><td data-bbox="655 822 929 1057"> <p>Eight annas.</p> </td></tr> <tr> <td data-bbox="362 1057 655 1205"> <p>When it exceeds Rs. 50, but does not exceed 100</p> </td><td data-bbox="655 1057 929 1205"> <p>One rupee.</p> </td></tr> <tr> <td data-bbox="362 1205 655 1387"> <p>For every Rs. 100 or part thereof in excess of Rs. 100 up to ...1,000</p> </td><td data-bbox="655 1205 929 1387"> <p>One rupee.</p> </td></tr> <tr> <td data-bbox="362 1387 655 1539"> <p>and for every Rs. 500 or part thereof in excess of...1,000</p> </td><td data-bbox="655 1387 929 1539"> <p>Five rupees.</p> </td></tr> </table>	<p>When the amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50</p>	<p>Eight annas.</p>	<p>When it exceeds Rs. 50, but does not exceed 100</p>	<p>One rupee.</p>	<p>For every Rs. 100 or part thereof in excess of Rs. 100 up to ...1,000</p>	<p>One rupee.</p>	<p>and for every Rs. 500 or part thereof in excess of...1,000</p>	<p>Five rupees.</p>
<p>When the amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50</p>	<p>Eight annas.</p>								
<p>When it exceeds Rs. 50, but does not exceed 100</p>	<p>One rupee.</p>								
<p>For every Rs. 100 or part thereof in excess of Rs. 100 up to ...1,000</p>	<p>One rupee.</p>								
<p>and for every Rs. 500 or part thereof in excess of...1,000</p>	<p>Five rupees.</p>								

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.
CO-PARTNERSHIP.	See <i>Instrument</i> , No 32	
22. COPY OR EXTRACT , certified to be a true copy or extract, by or by order of any public officer, and not chargeable under the law for the time being in force relating to Court-fees. ...	(a) If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee. (b) In any other case	eight annas. One rupee.
See <i>Exemptions</i> , Schedule II (Nos, 9 and 10).		
23. COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid ...	(a) If the duty with which the original instrument is chargeable does not exceed one rupee... (b) In any other case	The same duty as is payable on the original. One rupee.
24. CUSTOMS BOND	The same duty as a Security Bond (No 14.)
25. DECLARATION OF ANY TRUST of or concerning any property, when made by any writing not being a Will	Fifteen rupees.

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>26. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any warf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees </p>	<p>One anna.</p>
<p>DEPOSIT OF TITLE-DEEDS ... See <i>Instrument</i>, No. 29.</p>	
<p>DISSOLUTION OF PARTNERSHIP See <i>Instrument</i>, No. 33.</p>	
<p>DUPLICATE ... See <i>Counterpart</i>, No. 23.</p>	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
27. ENTRY AS AN ADVOCATE, VAKIL, OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exer- cise of powers conferred on such Court by letters patent ...	<div data-bbox="378 404 650 569" data-kind="parent" data-rs="2"> { In the case of an Advocate or Vakīl In the case of an Attorney ... </div> <div data-bbox="650 429 918 652"> Five hundred rupees. Two hundred and fifty rupees. </div>
See <i>Exemption</i> , Schedule II (No. 11)	
EXCHANGE ... See <i>Instrument</i> , No. 35	
EXTRACT ... See <i>Copy</i> , No. 22	
FURTHER CHARGE ... See <i>Instrument</i> , No. 30.	
GIFT ... See <i>Instrument</i> , No. 36	
28. INDEMNITY- BOND	The same duty as a <i>Security Bond</i> (No. 14.)
INSPECTORSHIP- DEED ... See <i>Composition-deed</i> , No. 20.	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
29. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT OF A LOAN made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property ...	<p>(a). When such loan is repayable more than three months, but not more than one year, from the date of such instrument. The same duty as a Bill of Exchange (No 11 (b)) for the amount secured.</p> <p>(b). When such loan is repayable not more than three months from the date of such instrument. Half the duty payable on a Bill of Exchange (No 11 (b)) for the amount secured.</p>
30. INSTRUMENT IMPOSING A FURTHER CHARGE ON MORTGAGED PROPERTY	<p>(a). When the original mortgage is one of the description referred to in No 44 clause (a), of this schedule. The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such instrument.</p> <p>(b). When such mortgage is one of the description referred to in No 44, clause (b), of this schedule. The same duty as a Bond (No. 13) for the amount secured by such instrument.</p>
31. INSTRUMENT OF APPRENTICESHIP, including every writing relating to the service or tuition of any apprentice, clerk, or servant, placed with any master to learn any profession, trade or manly	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
ment, except articles of clerkship (No 9 of this schedule) See <i>Exemption</i> , <i>Schedule II</i> (No. 12 (c)). ...	Five rupees. Ten rupees.
32. INSTRUMENT OF CO-PARTNER- SHIP. ...	Ten rupees.
33. INSTRUMENT OF DISSOLU- TION OF PART- NERSHIP.	Five rupees.
34. INSTRUMENT OF DIVORCE, that is to say instru- ment by which any person effects the dissolution of his marriage.	One rupee.
35. INSTRUMENT OF EXCHANGE of any property	The same duty as a Conveyance (No 21) for a consideration equal to the value of the property of greater value as set forth in such instru- ment.

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>39. LEASE— (<i>ctd.</i>)</p> <p>See <i>Agreement to lease</i> (No. 4) See <i>Exemptions, Schedule II</i> (No. 13)</p>	<p>of not less than one year, but not more than three years</p> <p>The same duty as a Bond (No. 13) for average annual rent reserved.</p>
	<p>exceeding three years</p> <p>The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent reserved.</p>
	<p>(b) Where by such lease the rent is fixed and no premium is paid or delivered, and such lease does not purport to be for any definite term</p> <p>The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.</p> <p>(c) Where the lease is granted for a fine or premium, and where no rent is reversed</p> <p>The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease.</p>

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>39. LEASE—(<i>old.</i>) See <i>Agreement to</i> (No. 4). See <i>Exemptions</i>, Schedule II (No. 13). }</p> <p>(<i>d</i>) Where the lease is granted for a fine or premium in addition to rent reserved</p>	<p>The same duty as a <i>Conveyance</i> (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered ;</p> <p>Provided that, when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.</p>
<p>40. LETTER OF ALLOTMENT OF SHARES in any Company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company.</p>	<p>One anna.</p>

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
41. LETTER OF CREDIT , that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn	One anna.
42. LETTER OF LICENSE , that is to say, any agreement between a debtor and his creditors that the latter shall, for specified time, suspend their claims, and allow the debtor to carry on business at his own discretion	Ten rupees.
43. MEMORANDUM OF ASSOCIATION OF A COMPANY	Fifteen rupees.
44. MORTGAGE-DEED not provided for by No. 14, No., 15 No 29, or No, 55 of this schednle. See <i>Exemptions</i> , Schedule. II No. 12, and No. 14 (b).	(a) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ... The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such deed (b) When at the time of execution possession is not given or agreed to be given as aforesaid The same duty as a Bond (No. 13) for the amount secured by such deed.

THE STAMP ACT

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
45. NOTARIAL ACT , that is to say, any instrument, endoresement, note, attestation, certificate, or entry made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
46. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock, or marketable security exceeding in value twenty rupees.	One anna.
47. NOTE OF PROTEST BY THE MASTER OF A SHIP	Eight annas.
PARTITION ... See <i>Instrument</i> , No 37.	
PARTNERSHIP ... See <i>Instrument</i> Nos 32 and 33.	
48. PETITIONER OR LEAVE TO FILE A SPECIFICATION OF AN INVENTION , or for the extension of	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.				PROPER STAMP-DUTY.			
the term of the exclusive privilege of making or using or selling such invention in India				One hundred rupees.			
				If drawn singly.		If drawn duplicate, for each part.	
				Rs. A. P.		Rs. A. P.	
(a). In the case of Sea-insurance—							
When the amount Rs. insured does not exceed ... 1,000				0	4	0	0 2 0
And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000				0	4	0	0 2 0
(b). In the case of any other insurance—							
When the amount insured does not exceed 1,000				0	6	0	0 3 0
And for every further sum of Rs. 1,000 or part thereof in excess of 1,000				0	6	0	0 3 0

49. POLICY OF INSURANCE

See *Exemption, Schedule II* (No. 14 (a)).

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
50. POWER-OF- ACTORNEY, not being a proxy chargeable under No. 51.	(a.) When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a single transaction ... Eight annas.
	(b.) When authoriz- ing one person or more to act in a single transaction other than that mentioned in (a)... One rupee.
	(c.) When authorizing not more than five persons to act joint- ly and severally in more than one tran- saction or generally Five rupees.
	(d.) When authoriz- ing more than five but not more than ten persons to act jointly and sever- ally in more than one transaction or gene- rally ... Ten rupees.
	(e.) In any other case One rupee for each person authorized.
<i>Explanation.</i> —For the purposes of this num- ber more persons than one when belonging to the same firm shall be deemed to be one person. PROMISSORY NOTE ... See <i>Bill of Exchange</i> , No. 11.	

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>PROTEST, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note ... See <i>Notarial Act</i>, No 45</p>	
<p>PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such ... See <i>Notarial Act</i>, No 45</p>	
<p>51. PROXY empowering any person to vote at any one meeting of—</p>	<p>... One anna.</p>

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>(a.) Members of a } Company whose stock or funds is or are divided into shares and trans- ferable :</p> <p>(b.) Municipal Com- } missioners :</p> <p>(c.) Proprietors, } Members, or Con- tributors to the funds of any In- stitution }</p>	<p>One anna.</p>
<p>52 RECEIPT FOR ANY MONEY OR OTHER PRO- PERTY THE AMOUNT OR V A L U E OF WHICH EX- CEEDS TWENTY RUPEES</p>	<p>One anna.</p>
<p>See <i>Exemptions</i>, Schedule II (No. 15).</p>	
<p>53. RE-CONVEY- A N C E OF MORTGAGED PROPERTY ... {</p>	<p>(a.) If the consi- deration for which the pro-Rs. perty was mort- gaged does not exceed ...1,000</p> <p>The same duty as a Conveyance(No.21) for the amount of such consideration as set forth in the re-conveyance.</p> <p>(b.) I any other case</p> <p>Ten.rupees.</p>

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
54. RELEASE , that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property. ...	(a) If the amount or value of the claim does not exceed Rs. ... 1000 The same duty as a Bond (No 13) for such amount or value as set forth in the release. (b) In any other case Five Rupees.
55. RESPONDENTIA-BOND , that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination. ...	The same duty as a Bond (No 13).
56. REVOCATION OF ANY TRUST of or concerning any property by any instrument other than a Will ...	Ten rupees.
57. SETTLEMENT ...	The same duty as a Bond (No 13) for a sum equal to the amount or value of the property settled as set forth in such settlement.
58. SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel ...	One anna.

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
SPECIFICATION. See <i>Petition</i> , No 48.	
59. SURRENDER OF LEASE See <i>Exemptions</i> , <i>Schedule II</i> (No. 16).	(a). When the duty with which the lease is chargeable does not exceed five rupees... The duty with which such Lease is chargeable. (b). In any other case Five rupees.
60. TRANSFER See <i>Exemptions</i> , <i>Schedule II</i> (No. 17).	(a). Of shares in a Company or Association ... One-quarter of the duty payable on a <i>C o n v e y a n c e</i> (No. 21) (b.) Of any interest secured by a Bond, Lease, Mortgage-deed, or Policy of Insurance— 1. If the duty on such Bond, Lease, Mortgage-deed, or Policy, does not exceed five rupees ... The duty with which such Bond, Lease, Mortgage-deed, or Policy of Insurance, is chargeable. 2. In any other case Five rupees. (c.) Of any property under the Administrator-General's Act 1874, section 31 Ten rupees. (d.) Of any trust-property from one trustee to another trustee without consideration ... five rupees.

SCHEDULE I.—(continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
TRUST ...See <i>Declaration</i> , No. 25 <i>Revocation</i> , No. 56.	
VALUATION ...See <i>Appraisement</i> , No. 7.	
61. WARRANT FOR GOODS , that is to say, any in- strument evidenc- ing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse, or wharf, such instrument being signed or cer- tified by or on be- half of the person in whose custody such goods may be.	Four annas.

SCHEDULE II.

INSTRUMENTS EXEMPTED FROM STAMP-DUTY.

1. Affidavit or declaration in writing when made—
 - (a) as a condition of enlistment under the Indian Articles of War;
 - (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or
 - (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.
2. Agreement or memorandum of agreement—
 - (a) for or relating to the sale of goods or merchandize exclusively, not being a note or memorandum chargeable under No 46 of Schedule I;
 - (b) for service in British Burma under the Chief Commissioner of that Province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner;
 - (c) made by rayats for the cultivation of the poppy for Government;
 - (d) made in the form of tenders to the Government of India for or relating to any loan;
 - (e) made regarding the occupancy of land denoted by a survey-number, and the payment of revenue therefore, under Bombay Act I. of 1865;
 - (f) made under the European Vagrancy Act, 1874, section 17.
3. Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.
4. Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.
5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.
6. Award under Bombay Act VI of 1873, section 81, or Bombay Act III of 1874, section 18.
7. Bill of lading, when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports' Act 1875, and are to be delivered at another place within the limits of the same port.

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8. Bond when executed by—

- (a) the sureties of middlemen (lambardars or khattadars) taking advances for the cultivation of the poppy for Government ;
- (b) headmen nominated under rules framed in accordance with Bengal Act III, of 1876, section 99, for the due performance of their duties under that Act ;
- (c) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Copy of registration of emigrants furnished under section 27 or section 29 of the Indian Emigration Act, 1871.

11. Entry—

- (a) of an advocate, vakil, or attorney on the roll of any High Court, when he has previously been enrolled in a High Court established by Royal Charter ;
- (b) on the roll of any High Court, as an attorney, of an articulated clerk bound as such before this Act comes into force.

12. Instruments—

- (a) executed by persons taking advances under the Land Improvement Act, 1871, or by their sureties, as security for the repayment of such advances ;
- (b) executed by officers of Government of their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof ;
- (c) of apprenticeship executed by a Magistrate under Act XIX of 1850, or by which a person is apprenticed by or at the charge of any public charity.

13. Leases and Counterparts—

- (a) Leases or fisheries granted under the Burma Fisheries Act, 1875 ;
- (b) Lease, executed in the case of a cultivator without the payment or delivery of any fine or premium, when a definite term is expressed, and such term does not exceed one year, or when the annual rent reserved does not exceed one hundred rupees ;

(c) Counterpart of any lease granted to a cultivator.

14. Letter—

(a) of cover or engagement to issue a policy of insurance :

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

(b) of hypothecation accompanying a bill of exchange.

15. Receipt—

(a) endorsed on or contained in any instrument duly stamped, or exempted under this schedule, No. 18, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest, or annuity, or other periodical payment thereby secured ;

(b) for any payment of money without consideration ;

(c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of (Fort St. George and Bombay) of inam lands ;

(d) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity ;

(e) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity ;

(f) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity ;

g) given by a headman or lambardar for land-revenue or taxes collected by him ;

(h) given for money or securities for money deposited in the hands of any banker, to be accounted for :

Provided the same be not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for ;

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

16. Surrender of lease when such lease is exempted from duty.

17. Transfers by endorsement—

- (a) of a bill of exchange, cheque, or promissory note ;
- (b) of a bill of lading ;
- (c) of a policy of insurance ;
- (d) of mortgages of rates and taxes authorized by any Act for the time being in force in British India ;
- (e) of securities of the Government of India ;
- (f) of a warrant for goods (No. 16 of Schedule I).

General Exemption.

18. Any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

SCHEDULE III.
ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847	... Copyright ...	In section 5, the words "without being subject to any stamp or duty."
X of 1866	... The Indian Companies Act.	In section 11, words "shall bear the same stamp as if it were a deed."
XVII of 1869	... The General Stamp Act. ...	In section 16, the words "they shall bear the same stamp as if they were contained in a deed." The whole.
VII of 1871	... The Indian Emigration Act.	In sections 27 and 29, the words "which shall not require a stamp."
XIX of 1873	... The North-Western Province Land-Revenue Act, 1873.	In section 183, the words "stamped" or
II of 1874	... The Administrator-General's Act.	In section 31, the words "bearing a stamp of ten rupees and
IX of 1874	... The European Vagrancy Act.	In section 17, the words "may be on unstamped paper and
XV of 1876	... Bombay Municipal Debentures.	In section 2, the words "and no such endorsement shall be chargeable with any stamp duty."

SPEECH OF THE HON'BLE MR. COCKERELL ON THE PASSING OF THE STAMP BILL.

The Hon'ble MR. COCKERELL moved that the Reports of the Select Committee on the Bill to consolidate and amend the law relating to stamps be taken into consideration. He said there were two reports before the Council ; the first or preliminary report had been presented by him to the Council at the commencement of September last, and at the time of its presentation he had explained very fully all the material amendments of the existing law for which the Bill, as then amended, provided. That report, together with the Bill, had been published, and from the communications which had been received from the various local Governments he was in a position to state that this publication had extended to every province of the empire ; it was further apparent, from the communications received, that the proposed alterations of the law had attracted the attention of public bodies and persons, such, for instance, as the British Indian Association, the Trades Association, the Association of Attorneys, vakils of the High Court, and articulated clerks—in short, public bodies and persons who might be taken as fairly representing the sections of the community who would be most interested in a measure of this kind ; so that it might reasonably be assumed that the proposals of the Committee in regard to the alteration of the stamp-law had obtained ample publicity. In regard to this preliminary report he need only add that the various communications received alike from official and non-official sources were in the sense of a general approval of the provisions contained in the amended Bill, and some of these communications had specially commended the exclusion of all matter relating to Court-fees. But although, as a matter of convenience, the amendment of the law in regard to Court-fees had been altogether dropped out of this Bill, it must not be supposed that the need for fresh legislation on the subject was by any means to be ignored, or in fact that such legislation was not as necessary and as urgent as the amendment of the law with which the Council was now dealing.

But any proposal for the amendment of the law in regard to Court-fees introduced into this Council as a substantive measure dealing exclusively with that subject would be obviously incomplete if it avoided the question of the propriety of distinctly affirming the fitness of, and consequent desirability of maintaining, the existing rates of fees on the institution of suits, or of introducing such amendments of those rates

as might be thought desirable. The Court-fees Act had now been in operation for nearly nine years, and as during a considerable part at least of that period there had been abnormal activity in litigation, it might fairly be said that sufficient experience had been gained to show whether the rates of institution-fees prescribed by the existing law were such as should be maintained permanently or modified. Connected also with the subject of the amendment of the law relating to Court-fees was the question of maintaining as at present, or enhancing, the rates of fees on probates, letters of administration, and certificates of administration. But until the law relating to certificates of administration (Act XXVII of 1860) had undergone some alteration, it would be of no use to alter the existing rates; for practically that law was so defective as regards the provision for compelling the payment of the full fee chargeable, that until this defect was remedied, the determination of a proper rate was of secondary importance. The question of the amendment of the working provisions of Act XXVII of 1860 had been somewhat complicated by a proposal which had been recently made for extending the system of granting certificates for the collection of the debts due to the estate of a deceased person, to the grant of letters of administration to the entire estate of such person. It was probably well known to the Council that, as a matter of fact, these certificates for the collection of debts were largely used as though they were letters of administration to the whole property of the deceased person, and it had been proposed in consequence of this well-known practice to make the law more in accordance with the practice. Whilst that project was under consideration consequently, and the question as to the best mode of levying fees in suits remained unsettled, there were difficulties in the way of proceeding immediately with legislation relating to Court-fees. But he hoped that the matter would be vigorously taken in hand as soon as might be practicable, and that as the General Stamp Act of 1869 had been followed by the Court-Fees Act of 1870, so, if this Bill should become law, the Stamp Act of 1879 would be followed by a Court-fees Act of 1880.

Turning now to the subject of the second report, he might remark that the further alterations recommended by the Committee had been adopted in consequence of the representations which they had received on the publication of the preliminary report, and these, though numerous, were not for the most part of any very great importance.

The only further change which it was proposed to introduce into the schedule of rates of duties was an increase of the duty chargeable on general powers-of-attorney, to which matter he would advert presently. The rest of the alterations might be said to be confined to improving the arrangement and wording of the rules and procedure laid down in the several sections of the Bill, and rendering the whole subject generally more intelligible. Amongst the changes of this character he might specially notice the following :—Under section 9 of the Bill, a power had been given to the Governor-General in Council to provide by rules for the number of impressed stamps which might be used for stamping any instrument, and the size of the paper to be used in the case of hundis or native bills of exchange. The number of stamps to be used was now to be fixed by rule instead of, as had hitherto been done, by a substantive provision of the Act itself. The provision of the existing law was so far imperfect that it merely prohibited the use of more than one stamp when the duty chargeable did not exceed one thousand rupees, and a single stamp for the amount required was readily procurable ; but it made no regulation as to the number of stamps to be used when the conditions just mentioned did not apply ; and the fact was that something more elastic than could be supplied by a substantive provision of the Act was required to regulate matters of this kind ; and the Committee had therefore, he thought, done wisely in taking out of the Act the determination of a matter of this kind, and leaving it to be settled by rule.

With regard to the provision in the same section for regulating the size of the paper to be used for hundis, he thought he could perhaps better explain its object by stating to the Council the different modes of stamping instruments now in force.

By far the largest number of instruments executed in British India were written on paper bearing an impressed stamp and sold by the Government ; but inasmuch as this stamp-impressed paper was unsuitable for instruments drawn up in the English form, the Government conceded (by rule) the privilege of writing such instruments on unstamped paper, and bringing the same, before the instrument was executed, to the Collector or other specially appointed officer, in order that the paper might be stamped by him.

Amongst the instruments to which this privileged mode of stamping extended were bills of exchange, and as this class of document in-

cluded hundis, they might be so stamped. Paper stamped by the Collector in the same manner as unexecuted documents brought by private persons was supplied and sold by the Government to be used for hundis. So that there were two kinds of hundi-paper in use under the present law, and it had been found—he believed in both cases—that frauds were practised by cutting off the portion of the paper so stamped, upon which there was any writing, in the case of time-expired hundis, and using the clear portion of the stamped paper again, either once or more often as the size of the paper might permit. The new provision, therefore, was designed to prevent this fraud ; and to make the provision effective, it would further be necessary to exclude hundis from the privilege above described, which had heretofore been accorded to bills of exchange generally.

This regulation of the size of paper, therefore, would be confined to the case of paper sold by Government, and could not, therefore, be productive of any inconvenience to the public. No doubt, it would be extremely convenient to the public if a larger use of adhesive stamps could be permitted, but the use of adhesive stamps, except under special conditions, that is to say, where the stamp was to be affixed by somebody responsible to the Government in some way or other, would be sure to entail great loss of revenue through frauds ; and the Legislature was therefore obliged to be very chary of extending this provision. In section 10, two such extensions were provided for—one in the case of notarial acts, and the other of entries of the names of advocates, vakils, or attorneys of the High Courts. In the case of notarial acts, the stamps had to be affixed by the notary, who, though not a public officer in the technical sense of the word, was under the control of public officers ; he had, moreover, no interest in avoiding the obligation of affixing a stamp, because the cost of providing the stamp would have to be found by somebody else. And in the case of entries of the names of advocates, vakils, or attorneys on the roll of a High Court, the act of fixing the stamp was to be performed by an officer of the Court, and the paper upon which it was to be affixed remained in the Court. Therefore, in these two instances, the extension of the privilege of the use of adhesive stamps could be safely conceded with due regard to the interests of the revenue.

Sections 30 and 31 of the Bill related to the adjudication of the proper duty chargeable in any case. It had been suggested to the Com-

mittee that they were wrong in their first amendment of the law in omitting to provide for the penalty where the instrument brought for adjudication had been previously executed, and no doubt the English law required, in all cases of *executed* instruments, that the penalty should be paid ; but the Committee had considered this matter very carefully and the conclusion to which they came was that, in this country, where there was greater ignorance perhaps on the part of those who had to execute instruments as to the requirements of the stamp-law, it was very desirable that a person should have the opportunity, without liability to any fine, and on payment of a very small adjudication-fee fixed by law, of resolving all honest doubt as to the amount of duty with which his instrument might be chargeable ; and it was to be observed that as the Bill was framed, although executed instruments might be brought to the Collector for adjudication of the proper duty, they could only be so brought within one month of their execution ; and it was thought that such a qualification was sufficient to secure the restriction of the privilege to cases in which there was a real uncertainty as to the proper stamp to be used, and a *bona fide* desire to have such doubt removed.

Some alteration had been made in the language, but not in the substance, of section 40 of the Bill. That section, or its corresponding section in the Bill published, drew forth the criticism that it was quite unnecessary to say that the Collector might prosecute in certain cases, because another section in the chapter on criminal penalties laid down the conditions of offences very clearly, and also gave power to the Collector to prosecute in respect of *all* offences. It seemed, therefore, desirable to explain what the exact object of the provision contained in section 40 was. The language had been altered in order to indicate that object more clearly. The object was to show that, the Bill providing for a double set of penalties in circumstances constituting the same offence, both provisions might be worked concurrently, and were not intended to have a merely alternative operation.

In section 54 of the Bill provision had been made for a refund of the value of a stamp bought with the *bona fide* intention of using, and which was not required for use. That provision had been inserted in consequence of the alteration of section 68 of the Bill, which had now been drawn so as to exclude absolutely sales of stamps by persons not licensed to sell. The Committee, it would be seen from the changes made at different stages of the Bill, had been undecided in their opinion in regard to this matter. The Bill as introduced like the Bill now

before the Council, had been framed so as to absolutely prohibit the sale of stamps by unlicensed persons. In consequence of representations made in regard to that prohibition, the amended Bill published with the preliminary report (Bill No II) contained a provision by which the sale of stamps by private persons was allowed in certain cases and under certain conditions. But it had been pointed out to the Committee that whatever conditions they might impose, if the sale of stamps was allowed in any form by private persons, the privilege would be greatly abused. Mr. COCKERELL, could perhaps best describe to the Council the arguments urged on this side of the question by reading an extract from one of the papers received. The Judge of the Assam Valley Districts wrote:—

Every one is familiar with the practice which prevails in India, of persons buying stamps from licensed vendors, and selling them after several years, yellow with age, to any one wishing to use them for forging deeds of more or less ancient date. The Bill implies that the Legislature will not interfere with this practice. As for the provision in section 66, that the purchaser must have purchased *bona fide* to avoid a prosecution, it is, I think, of little value, as false evidence is easily procurable on this point. A purchaser, who has bought a stamp for which, after purchase, he has found no use, might, I think, be allowed to return it to the treasury within a given period, a refund of its value being made to him; and if this is done, I do not see what ground exists for permitting a purchaser to resell.

The Committee, on mature consideration of this question, thought it was perhaps best to prohibit sales of stamps by private persons, and to facilitate the recovery of the value of any stamp-paper which was not required for use.

The only material change in the schedule which he need notice was that which he had already incidentally referred to—namely, the enhancement of the duty on certain powers-of-attorney. The change would be found in article 50 of the schedule. The Committee had provided that, where the number of persons appointed under one power-of-attorney exceeded a reasonable allowance—and by reasonable allowance he meant ten persons—an extra rupee should be levied upon the power-of-attorney in respect of every additional person appointed under it. The provision was noval certainly: it could not be said to derive any support from anything in the English law on the subject; but, then, the practice in England was very different. A single power-of-attorney for general purposes in favour of a very large number of persons was hardly ever met with. But in this country they had instances where 116 and 85 persons were appointed by one power-of-attorney, and the local Revenue Authorities, considering that that was an abuse, had ordered that

the general power-of-attorney should be recognized only as covering the appointment of a single person. That order obviously was not warranted by the present law, and had to be withdrawn. But there was no doubt that the extent to which powers-of-attorney were being made to cover the appointment of a large number of persons did require some remedy, and the best mode of dealing with the subject was thought to be the course which had been adopted in the present Bill—namely the imposition of an extra duty of one rupee for every person in excess often appointed under the power of attorney. The enhanced rate would fall only on person in excess could very well afford to pay it—namely, persons who had to appoint a large number of agents because they had property in a correspondingly large number of places.

Having thus briefly commented upon the material changes introduced into the Bill now before the Council, he would proceed very briefly to notice the suggestions which had been made to the Committee, but which had not been adopted. The Committee was strongly advised by the Government of the North-Western Provinces and some of its subordinate Revenue-officers to exclude, from the definition of instrument of partition, partitions effected by the Revenue Authorities. It was urged that it would be inconvenient in practice, because it would be difficult to say at what particular stage of the proceedings this duty should be levied : that, moreover, particulars by the Revenue Authorities were very costly proceedings, and it was not desirable to increase their cost by the imposition of an *ad valorem* stamp-duty. As regards the period at which the duty should be levied, the Bill proposed that the stamp should be borne by the paper recording the final order for effecting a partition and that final order might be the final order of the Collector or of the Commissioner, or of Chief Controlling Revenue Authority ; but the word “ final ” pointed to the stage at which the duty was to be paid. Then, as to the cost of effecting partitions being very great, from Mr. COCKERELL’S own experience he should say that they were only very costly when great obstructions to the proceedings were made by some of the parties concerned. These partitions, which in some instances extended over several years, and involved protracted and consequently expensive deputations of Amins, were invariably cases in which some of the parties to the transaction were passively obstructing the progress of the work, by not producing necessary papers and in other ways withholding assistance required from them ; he did not think that a case had been made out for excluding from liability to stamp-duty partitions effected

by the Revenue Authorities ; and to impose the liability to duty on some partitions, whilst the largest and most important class was to be specially exempted from the tax, would, in his opinion, be inequitable.

The Board of Revenue of the Lower Provinces also had again pressed their former proposal to compel the payment of stamp-duty on intermediate transfers of shares. The Committee had been unable to adopt the suggestion of the Board, for the simple reason that there was no way in their opinion by which the duty could be levied in such cases ; for the transactions were not reduced to writing further than that a signature upon a blank deed was taken ; but the whole conditions of the transfer and the obligations of the parties under it were matters of oral or parol contract ; hence the document could not operate as a conveyance or be produced in Court as evidence, and there seemed consequently to be no ground for subjecting it to duty, even if any feasible mode of compelling the payment of duty could be devised.

The circumstances of the case in great measure resembled that of successive purchase and sub-purchases of property where only one conveyance of the property forming the subject of such purchase and resale was made.

In such cases one conveyance-duty only was chargeable, and the principle of this rule seemed to apply to the case under notice.

The third and last case in which the Committee had been unable to adopt the course recommended was in regard to the allowance of appeals against, and revisions of orders and certificates of, a Collector. It seemed very undesirable that these questions as to the proper stamp-duty should remain long undecided. In England there was only one authority by which such questions were disposed of—the Inland Revenue Commissioners ; and in this country the Collector must, for these purposes, be treated as taking the place of the Inland Revenue Commissioners. But this withholding of a power of appeal or of revision, in individual cases, did not take away the general power of revision which every controlling authority could exercise over its subordinates ; and it seemed quite sufficient to prevent the subordinate Revenue Authorities from going very far in a wrong direction, that there was always the probability of any specially misdirected application of the law being made the subject of orders for the future guidance and direction of the subordinate authorities concerned.

He would now, in conclusion, briefly summarize the effects of the amended Bill in modifying the provisions of the existing law.

It provided for a direct increase of duty in the case of the following instruments :—

I. Bonds, Conveyances, Leases, Mortgages, Settlements,	}	where the amount involved exceeds Rs. 10,000.
II. Bonds and other instruments chargeable as Bonds,		
	}	where the amount involved exceeds Rs. 10, but does not exceed Rs. 25.

III. Policies of insurance other than insurance against risks by sea.

It substituted *ad valorem* duties for fixed duties in the case of—

- (1) Instrument guaranteeing repayment of loans at short period;
- (2) Instruments of gift ;
- (3) Instruments of exchange, and
- (4) Instruments of partition.

It imposed a new duty on the entry of names of advocates, vakils, and attorneys on the rolls of any High Court. These were the material increases of the stamp-duties imposed by the existing law. *Per contra*, the Bill provided for the reduction of the maximum limit of *ad valorem* duty in four classes of instruments—

- (1) Indemnity-bonds,
- (2) Security-bonds,
- (3) Transfer of interests secured by other stamped deeds, and
- (4) Surrenders of leases.

What these alterations in the rates of duty were likely to produce in the way of increased revenue, MR. COCKERELL had attempted to show when he presented the preliminary report of the Select Committee. Further, the present Bill aimed at rendering the stamp-law generally more intelligible, by clearer interpretations, by a better arrangement of the matter of the law, and by the simplification of the schedule. And it was specially designed to effect to a great extent the prevention of the evasion of the payment of duty, by the more stringent provision which it introduced for dealing with instruments insufficiently stamped, and for putting a pressure upon the Courts to co-operate in the protection of the revenue. Of these different measures he should expect most from the more stringent provisions of the Bill for checking evasions. There could be no doubt, he thought, for the reasons he gave when presenting the preliminary report, that the majority of the Courts—he did not speak of *all*—were unwilling to give sufficient attention to the protection of the interests of the revenue. Why this should be so he himself did not, and never had been able to, understand—why the Court, which recognised its responsibility to protect one individual from wrong-doing by another, or to give redress where wrong was inflicted by one person upon another, should be so slow to act when the

wrong inflicted affected a large number of persons, he could not say but such was certainly the case ; for it must be obvious that the wilful evasion of stamp-duties or of any other tax differed from any act of fraud or attempted misappropriation of property in this only, that whereas in the latter case the wrong was inflicted by B. upon C. ; in the former it was inflicted by B. upon all the other letters of the alphabet ; because the person who wilfully evaded the payment of duty was attempting to shift the burden of taxation from his own shoulders to the shoulders of the community generally ; for if the treasury lost by the excessive evasion of stamp-duty, the loss must be replaced by some other means of taxation

He (MR. COCKERALL) would only further say that he was not so sanguine as to suppose that the Bill, which, if it became law, must, by reason of its affecting the transactions of such a large number of persons, be subjected to so much wear and tear, would be found absolutely without defect ; but he did venture to hope that it would be found to work more conveniently and satisfactorily to the public—as being generally more intelligible—and at the same time produce a larger revenue, than any of its predecessors.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the Bill as amended be passed. He desired, before the motion was put to the Council, to supply an omission in his previous remarks. He had omitted to offer the explanation which seemed to be called for by some of the criticisms received in regard to the Bill as first amended, in respect of the definition of "receipt" having been framed so as to cover receipts by advertisement. It had been said that an adhesive stamp could not be affixed to the paper bearing such advertisement, and no doubt this was so. But, then, the Committee deliberately desired to stop the practice of advertising receipts of money exceeding Rs. 20, because, so long as persons obtained the acknowledgement of their payments of money by means of these advertisements, it was hopeless to expect them to exercise their power—a power given to them for the protection of the revenue—of demanding receipts which would have to bear a stamp. No inconvenience would result to the public from the stoppage of advertised receipts in these cases ; and the Committee clearly were bound to consider the interests of the revenue and the necessity for protecting them before the convenience of newspaper proprietors.

The Motion was put and agreed to.

A P P E N D I X .

RULES UNDER THE STAMP ACT.

FINANCIAL DEPARTMENT.

NOTIFICATION.—SEPARATE REVENUE—STAMPS.

Simla, the 19th April, 1879.

No. 196.—In exercise of the powers conferred by Sections nine, fifteen, seventeen, thirty-two, fifty-one, and fifty-six of the Indian Stamp Act, 1879, the Hon'ble the President in Council is pleased to make the following Rules :—

(A).—Preliminary.

1. These Rules shall come into force throughout British India on the 1st of May 1879, and on and from that day the Notification No. 62,* dated 11th April 1879, shall be cancelled.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be three kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(1) Impressed Stamps—that is to say, sheets of paper bearing the impression of stamps of different values engraved thereon and sold to the public for use by them in accordance with these Rules.

(2) Adhesive Stamps sold to the public for use by them in the case of instruments mentioned in Section ten of the said Act.

(3) Stamped Labels—to be affixed only by Government officers in the manner hereinafter prescribed.

(B).—Of Impressed Stamps.

4. All instruments chargeable with duty, except hundis, may be written on Impressed Stamps, and, except as provided by Section Ten of the said Act and by these Rules, shall be so written.

5. When any instrument is to be written on an Impressed stamp, if the amount of duty with which such instrument is charge-

* The present Notification differs from the superseded Notification No. 62, dated 11th April 1879, only in that " Powers of Attorney" have been inserted as item No. 29, under Rule 6. This item was accidentally omitted from the earlier Notification.

able does not exceed five hundred rupees, a single impressed stamp shall be used, unless—

if the application for the required stamp is made at a treasury, the officer in charge of such treasury, or,

if such application is made to a stamp-vendor, the vendor, certifies that he is unable to furnish a single stamp of the required amount.

When the amount of duty chargeable in respect of an instrument exceeds five hundred rupees, or a treasury-officer or stamp-vendor has certified that he is unable to furnish a single stamp of the value required, the number of stamps used for indicating the payment of duty shall not exceed the number which the treasury-officer or the stamp-vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount :

Provided that no certificate made by a stamp-vendor under this Rule shall be of any effect when there is, at the date of the certificate, a public treasury at which stamps are kept for sale situate within two miles from the place where such vendor sells stamps.

When, under this Rule, two or more impressed stamps are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each stamp so used.

(C).—Of Stamped Lables.

6. Stamped Lables may be affixed to the following instruments, namely—

- (1) Administration-bonds :
- (2) Affidavits :
- (3) Appointments made in execution of a power :
- (4) Articles of Association of a Company :
- (5) Articles of clerkship :
- (6) Bills of lading :
- (7) Charter-parties :
- (8) Declarations of trust :
- (9) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property :
- (10) Memoranda of Association of Companies :
- (11) Notes of Protest :
- (12) Petitions for leave to file specification of an invention, &c :
- (13) Policies of insurance :

- (41) Revocations of trust :
 and the following—when written in the English language—
- (15) Agreements or Memoranda of agreements which in the opinion of the officer empowered to affix the stamp, cannot conveniently be written on impressed stamps :
 - (16) Award :
 - (17) Bills of Exchange payable otherwise than on demand and drawn in British India :
 - (18) Bonds :
 - (19) Composition-deeds :
 - (20) Conveyances :
 - (21) Instruments imposing a further charge on mortgaged property :
 - (22) Instruments of apprenticeship :
 - (23) Instruments of co-partnership :
 - (24) Instruments of dissolution of partnership :
 - (25) Instruments of exchange :
 - (26) Leases :
 - (27) Letters of license :
 - (28) Mortgage-deeds .
 - (29) Powers of Attorney :
 - (30) Reconveyances of mortgaged property :
 - (31) Releases :
 - (32) Settlements :
 - (33) Transfers of the description mentioned in Article No. 60 of the First Schedule of the said Act.

7. The following officers are empowered to affix Stamped labels to the instrument mentioned in Rule Six, namely—

- (a) the Collectors of Calcutta and Karachi :
- (b) the Superintendents of stamps at Calcutta, Madras, Bombay, Rangoon, Maulmain and Akyab ;
- (c) the commissioner of Stamps, North-Western Provinces :
- (d) the Superintendent of Stamps, Panjab ; and
- (e) the Superintendent of Stamps (Political Resident,) Aden.

8. Every such officer shall upon any instrument mentioned in Rule Six being brought to him before it is executed, and application being made to him for that purpose, affix thereto a stamped label of such value as the applicant may desire and pay for, and deface such label by means of a stamping-machine before returning the instrument to the applicant.

When the value of the stamp amounts to twenty rupees or upwards such officer shall, besides so defacing the label, attach his usual signature to the instrument immediately under the label.

9. Hundis other than hundis which can be stamped with an adhesive stamp under Section Ten of the said Act shall be written on paper supplied for sale by the Government and to which stamped labels have been affixed by one of the officers mentioned in Rule Seven, Clause (b), and defaced by him in manner provided by Rule Eight.

10. Every sheet of such paper shall be of a size not less than $8\frac{1}{2} \times 5\frac{1}{2}$ inches, and no plain paper shall be joined to it.

11. The payment of duty on instruments (other than Bills of Exchange, Cheques and Promissory Notes) executed out of British India and requiring to be stamped after their receipt in British India shall be indicated only by stamped labels.

When any such instrument is brought to the Collector under Section Seventeen of the said Act, the Collector shall send the instrument to one of the officers mentioned in Rule Seven, stating the amount of duty paid in respect of such instrument ; and such officer shall stamp the instrument in the manner prescribed by Rule Eight and return the same to the Collector for delivery to the person [by whom it was produced.

(D).— Miscellaneous.

12. When it is necessary under Section Fifteen of the said Act to denote upon one instrument the payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

13. Every payment made under Section Thirty of the said Act shall be made in cash.

14. The Collector shall require every person claiming a refund or renewal under Chapter VI of the said Act, or his duly authorised agent, to make an oral deposition on oath, or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his agent.

R. B. CHAPMAN,
Secy. to the Govt. of India.

CIRCULAR No. 9 OF 1878.

FROM

J. C. ROBERTSON, Esquire,

Offg. Commr., Stamps, N.-W. P. and Oudh ;

TO

ALL DISTRICT OFFICERS,

North-Western Provinces and Oudh.

DATED ALLAHABAD, THE 3RD JUNE, 1878.

SIR,—The notifications and orders marginally noted having been cancelled with effect from 30th April, 1878, Notifications Nos. 24 and 25, Separate Revenue (Stamps) Department, dated 20th April, and the rules in force in Oudh for the sale of general stamps having been introduced into the North-Western Provinces, while the rules in force in latter provinces for the supply, sale, renewal, and account of court-fees stamps have been introduced into Oudh, I am directed by Government to call your attention to the following points.

Notification, North-Western Provinces,
No. 169 A., dated 15th August, 1870.
Oudh notification No. 2684 dated 7th
August, 1874.
Chief Commissioner's Revenue Circu-
lars Nos. 19 and 28 of 1874.

cancelled with effect from 30th
April, 1878, Notifications Nos. 24
and 25, Separate Revenue (Stamps)
Department, dated 20th April,
and the rules in force in Oudh for
the sale of general stamps having

GENERAL STAMPS.

Rule I.—Stamps under article 9, schedule II., which formerly in the North-Western Provinces came under class I., now come under class II.

Rule III.—The tahvildar at each tahsili in the interior of a district shall be an *ex-officio* vendor, and the officer in charge of the stamp department in each district is empowered to grant licenses, subject to the control of the Collector. Care must be taken by that officer to guard against monopolies of vend, and he should not refuse to grant a license on the ground that the profits of other vendors will be thereby curtailed.

Rule IV.—*Ex-officio* vendors shall supply the public and licensed vendors with stamps of either class, and allow discount at the rates and under the conditions hereafter prescribed for purchases made from Government. The Collector is authorised to allow stamps of a higher denomination than Rs. 10 to be sold by a licensed vendor at any place where it may appear to him necessary to do so, with reference to the requirements of the public. But in the event of permission being granted for sale of stamps of a higher denomination than Rs. 25 each, a report shall be made to the Commissioner of Stamps. Under no

circumstances can discount be given on account of the purchase of any stamp exceeding Rs. 50 in value.

Rule VI.—The following rates of discount are prescribed by Government as payable to any persons purchasing from Government, by payment of ready money, stamps in class I., subject to the conditions attached to rule VIII.—

	Per cent.
Stamps not exceeding in value 8 annas each ...	6½
Stamps exceeding in value 8 annas each, but not exceeding in value 5 each...	4
Stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each ...	2

Rule VII.—The following rates of discount are prescribed by Government as payable (subject to conditions attached to rule VIII.) to any licensed vendor who purchases from Government, by payment of ready money, stamps of class II. :—

	Per cent.
Vendors licensed at places where stamps are sold by Government,	3
Vendors licensed at other places	5

Rule VIII.—An order to enable discount to be given, it is necessary that a minimum quantity of stamps of an aggregate value of not less than five rupees (Rs. 5) shall be purchased at one time.

Rule IX.—Licensed vendors may, with the permission of the local Government, be supplied with stamps of either class, without payment in ready money, whereas formerly in the North-Western Provinces only stamps of class II. could be supplied under these conditions.

Rule XI.—Every *ex-officio* or licensed vendor shall keep a register in the annexed form :—

Register of daily sales of stamps.

1.	2.	3.	4.	5.	6.
Date of sale.	Description of stamp.	Serialnumber of stamp.	Value of stamp.	Name of purchaser.	Residence of purchaser.

The officer in charge of the stamp department will satisfy himself that this register is properly kept up by each vendor.

With reference to Notification No. 142A., dated 1st May, 1878, the certificate given by a vendor, under section 49 of the General Stamp Act, 1869, shall be endorsed on each sheet of stamp paper to make up the required amount, and shall be in the annexed form :—

“ Certified that , caste , resident of , has this day applied for a stamp of the value of Rs. , and there being no stamps of this particular denomination procureable, I have furnished him with (two or more as the case may be) of the following value, namely (here give detailed description of each stamp supplied), these being the smallest number of stamps with which it was possible for me to make up the required amount of Rs. ”

COURT-FEES STAMPS.

Under the rules which have now been introduced into Oudh, sales of these stamps will be conducted almost entirely by the treasurers at head-quarters of districts and at outlying tahsilis. The instructions contained in rule VII., as to the manner in which stamps up to one rupee in value are to be sold in the camp of each judicial officer on tour, and in rule XIV. as to the manner in which the accounts of such sales shall be kept, must be strictly adhered to.

I have the honour to be,

SIR,

Your most obedient servant,

J. C. ROBERTSON,

Offg. Comr. of Stamps. N. W. P. and Oudh.

RULES
FOR
REGULATING SALE OF GENERAL STAMPS
IN THE
N.-W. PROVINCES AND OUDH.

SEPARATE REVENUE (STAMPS) DEPARTMENT.

No. 24, dated the 20th April, 1878.

The following rules for regulating the sale of general stamps, framed by the Government of the North-Western Provinces and Oudh under section 48, Act XVIII. of 1869, and approved by the Governor-General in Council, are published for general information :—

I.—For the purpose of these rules stamps are divided into two

Class I.—Adhesive stamps—stamps under schedule

I., articles 1 and 2 ; stamps under schedule

II., articles 1 to 8.

Class II.—All other stamps prescribed by the General Stamps Act, 1869.

II.—Stamps in class I. may be sold by any person ; stamps in class II shall be sold by *ex-officio* and licensed vendors in accordance with these rules.

III.—The treasurer of each district and such ministerial officers at tahsils as may be authorized by Collectors shall be *ex-officio* vendors ; such persons as may be licensed by the Collector or any other officer empowered by the local Government to grant licenses shall be licensed vendors. The Collector or other officer so authorized should make such arrangements for the appointment of licensed vendors that the people need only come to the treasury to purchase direct, when the stamp they require is one of the high values for which the licensed vendors do not get discount.

IV.—*Ex-officio* vendors shall sell such stamps as they may be directed by the local Government to sell. Licensed vendors shall sell such stamps as are indicated in their licenses. They should ordinarily be restricted to the sale of stamps of value not exceeding Rs. 10 each.

V.—Every license should be issued in the annexed form (A), and renewed every year, and it may at any time be revoked by the authority granting it.

VI.—Subject to rule VIII., every person who purchases from Government, by payment of ready money, stamps in class I., shall receive the same at such discount, not exceeding the following rates, as may be prescribed by the local Government :—

	<i>Per cent.</i>
Stamps not exceeding in value 8 annas each ...	6 $\frac{1}{4}$
Stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each ...	4
Stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each ...	2

VII.—Subject to rule VIII., every licensed vendor who purchases from Government, by payment of ready money, stamps of class II., shall receive the same at such discount, not exceeding the following rates, as may be prescribed by the local Government :—

	<i>Per cent.</i>
Vendors licensed at places where stamps are sold by Government	3
Vendors licensed at other places	5

VIII.—No discount shall be given on account of the purchase of any stamp exceeding Rs. 50 in value, nor on any stamp applied on material furnished by the purchaser himself, nor if there be purchased at one time less than the quantity which may be prescribed by the local Government in respect of any class or value of stamps.

IX.—The local Government may authorize licensed vendors to be supplied with stamps of either class without requiring payment in ready money. Such licensed vendors may receive commission on these stamps sold by them at a rate to be prescribed by the local Government not exceeding 2 per cent. In this case sufficient security shall be taken from the licensed vendors for the payment of any sum due by them to Government.

X.—Every licensed vendor shall, at all times, have stuck up in a conspicuous station outside the place of vend a sign-board bearing the name of the vendor, with the words "Licensed Vendor of Stamps" in English and in the vernacular language of the district. He shall

also have in the place of vend the Acts of the Legislature and their schedules referring to the stamps sold by him, together with these rules in English and the said vernacular, placed so that they can readily be seen and read by purchasers.

XI.—Every *ex-officio* or licensed vendor shall write on the back of every stamp of class II. which he sells a serial number, the date of sale, the name and residence of purchaser and the value of stamp in full words, and his own ordinary signature. At the same time he shall make corresponding entries in a register to be kept by him in such form as the local Government may prescribe. No such vendor shall knowingly make a false endorsement on the stamp sold, or a false entry in his register.

XII.—Every licensed vendor shall without delay deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector of the district. A licensed vendor shall not demand or accept for any stamp any consideration exceeding the value of such stamp.

XIII.—No vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

XIV.—Every vendor shall keep and render such accounts as may be prescribed by the local Government, and shall allow the Collectors of the district or any officer duly authorized by such Collector or by the local Government at any time to inspect such accounts and the register which he is required to keep under rule XI., and to examine the store of stamps in his possession.

XV.—Every vendor shall at any time, on the demand of the Collector or other officer duly authorized by the local Government, deliver up all stamps of class II. remaining in his possession, and if such stamps have been paid for, shall receive back the value thereof less any discount which may have been allowed.

A.

License for vend of stamps under Act XVIII. of 1869 for the
year

To

son of

Resident of

You are hereby authorized, agreeably to the provisions of section 48, Act XVIII. of 1869, to sell general stamp under the conditions herein set forth.

1. Stamped papers and adhesive stamps of value not exceeding Rs. each that you may obtain from the treasury shall alone be sold.

2. You will note on the back of every impressed bi-colour stamp you sell the serial number, date of sale, name and residence of the purchaser, and the value of the stamp in full in words, and attach your signature to this endorsement. These particulars you will also note in your sale register, to be kept in such form as may be from time to time prescribed.

3. You shall not knowingly make a false endorsement on a stamp sold, or a false entry in your register.

4. You are required to deliver any stamp in your possession for sale that may be demanded, on tender of its value in any currency, which would be accepted on behalf of Government by the Collector of the district.

5. You shall not sell any stamps that may be declared obsolete.

6. You shall not demand or accept for any stamp other than the actual value denoted thereon.

7. You shall at all times have stuck up in a conspicuous station outside the place of vend a sign-board bearing your name with the words "Licensed Vendor of Stamps" in English and in the vernacular language of the district. You shall also have in the place of vend the Acts of the Legislature and their schedules referring to the stamps sold by you, together with the rules for regulating the sale of general stamps framed under section 48 of the General Stamp Act in English and the said Vernacular, placed so that they can readily be seen and read by purchasers.

8. You shall keep and render such accounts as may be prescribed by the local Government, and shall allow the Collector of the district, or any officer duly authorized by such Collector or by the local Government, at any time to inspect such accounts and the register which you are required to keep under rule XI., and to examine the store of stamps in your possession.

9. You shall be liable for any infractions of these conditions to the penalties prescribed in section 48, Act XVIII. of 1869.

Collector.

No. 142A, dated the 1st May, 1878.

THE following rule, framed by the Lieutenant-Governor and Chief Commissioner under section 48 of the General Stamp Act, approved by the Governor-General in Council, is published for general information, in continuation of the notification of this Government, No. 24, dated 20th April, 1878 :—

“ Every vendor granting a certificate under section 49 of the General Stamp Act, 1869, will specify therein the stamps of the highest value, below the required value, which he can supply to make up such required value.”

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Stamp on instrument of loan upon hypothecation of moveable, sch. i., No. 29.

Stamp on power appointing trustees of immoveable, sch. i., No. 6.

Stamp on instrument of exchange of any, sch. i., No. 35.

Stamp on receipt for, exceeding 20 rs. in value, sch. i., No. 52.

Stamp on re-conveyance of mortgaged, sch. i., No. 53.

Stamp on release of any, sch. i., No. 54.

Stamp on revocation of trust of any, sch. i., No. 56.

Stamp on certificate of sale by civil or revenue court, sch. i., No. 16.

Prosecution—

For offence against stamp-law, s. 40.

Institution and conduct of, s. 69.

Proxy—

Stamp on, sch. i., No. 51.

Protest—

Of bill or note, stamp on, sch. i., No. 45.

Attested by notary public, stamp on, sch. i., No. 45.

Of master of ship, stamp on, sch. i., No. 47.

Stamp on attestation by notary-public of ship-master's, see *Notarial act*, sch. i., No. 45.

Publication—

of rules, s. 57.

Public officer—

Not to admit instruments not duly stamped, s. 34.

Exempted from stamping copy of paper required for public purpose, sch. ii., No. 9.

Stamp on copy or extract certified by, sch. i., No. 20.

Publication—

Stamp on certificate of sale of property sold by civil or revenue court by, sch. i., No. 16.

Purchaser—

or property sold by civil or revenue court, stamp on certificate given to, sch. i., No. 16.

Rate of exchange—

or average price, effect of statement of, s. 22.

Conversion of foreign to Indian currency according to current, s. 20.

Rate and taxes—

Exemption of deed of transfer of, sch. ii., No. 17.

Rates of duty—

Power to reduce or remit, s. 8.

Rayats—

Exempted from giving stamped agreement for cultivating popy, sch. ii., No. 2.

See *Cultivator*.

Receipt—

Definition of, s. 3, cl 17.

For money exceeding 20 rs., stamp on, sch. i., No. 52.

To be given on demand in certain cases s. 58.

Penalty for refusal to give, s., 64.

Endorsed on a duly-stamped or exempted instrument exempt, sch. ii., No. 15 cl. a,

For payment without consideration exempt, *ib.*, cl. b,

For rent paid by cultivator of land assessed to government-revenue, or of inam lands, exempt, *ib.*, cl. c.

For pay by officers or soldiers exempt *ib.*, cl. d.

For pensions or allowances by officers or soldiers, *ib.* cl. c.

Given by holders of family-certificates exempt, *ib.*, cl. f.

Given by headman or lambardar exempt, *ib.*, cl. g.

For money deposited in the hands of a banker exempt, *ib.*, cl. h.

For sums paid for letters of allotment or on calls, *ib.*

By or on behalf of government exempt, sch. ii., No. 18.

Re-conveyance—

of mortgaged property stamp on. sch. i. No. 53.

Reduction—

or remission of rates of duty by Governor-general, s. 8.

Reference—

By collector to chief controlling revenue-authority, s. 45.

By chief controlling revenue-authority to high court or chief court, in disposing of, s. 48.

By other courts to high court or chief court, s 49.

Reference—

Made to old Act to be deemed to be made to this, s. 2.

Refund—

By Collector of penalty (paid under para. 1 of s. 35.) s. 36.

By chief controlling revenue-authority of penalties, s. 42.

In case of useless or spoiled stamp-paper, ss. 51—54.

Refusal—

Allowance for spoiled stamp-paper in case of, to execute deed or advance money, s. 51.

Allowance for spoiled stamp-paper in case of, of office or trust, *ib.*

To give stamped receipt, penalty for, s. 64.

Registration—

Stamp on power to present one or more documents for, sch. i., No 50.

Release—

Stamp on instrument of sch., i. No 54.

Relinquishment—

of land in Bombay, stamp on agreement relating to, sch. i, No 5.

Remission—

Of penalty (paid under s. 34 or 37), s. 42

Or reduction of rates of duty by Governor-General, s. 8.

Remuneration—

Of stamp-sellers, rules as to s. 55.

Rent—

Exemption of instrument for appraisal of crops to ascertain amount to be given to landlord as, sch ii., No 4.

Repeal—

Of enactments, s. 2.

Rate of exchange—

or average price, effect of statement of, s. 22.

Conversion of foreign to Indian currency according to current, s. 20.

Rate and taxes—

Exemption of deed of transfer of, sch. ii., No. 17.

Rates of duty—

Power to reduce or remit, s. 8.

Rayats—

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For pensions or allowances by officers or soldiers, *ib.* cl. c.

Given by holders of family-certificates exempt. *ib.*, cl. f.

Given by headman or lambardar exempt, *ib.*, cl. g.

For money deposited in the hands of a banker exempt, *ib.*, cl. h.

For sums paid for letters of allotment or on calls, *ib.*

By or on behalf of government exempt, sch. ii., No. 18.

Re-conveyance—

of mortgaged property stamp on. sch. i. No. 53.

Reduction—

or remission of rates of duty by Governor-general, s. 8.

Reference—

By collector to chief controlling revenue-authority, s. 45.

By chief controlling revenue-authority to high court or chief court, in disposing of, s. 48.

By other courts to high court or chief court, s 49.

Reference—

Made to old Act to be deemed to be made to this, s. 2.

Refund—

By Collector of penalty (paid under para. 1 of s. 35.) s. 36.

By chief controlling revenue-authority of penalties, s. 42.

In case of useless or spoiled stamp-paper, ss. 51—54.

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Registration—

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of land in Bombay, stamp on agreement relating to, sch. i, No 5.

Remission—

Of penalty (paid under s. 34 or 37), s. 42

Or reduction of rates of duty by governor-General, s. 8.

Remuneration—

Of stamp-sellers, rules as to s. 55.

Rent—

Exemption of instrument for appraisalment of crops to ascertain amount to be given to landlord as, sch ii., No 4.

Repeal—

Of enactments, s. 2.

Respondentia-bond—

Stamp on, sch. i, No 55.

Return—

To collector of penalties levied, s. 35.

Revenue-authority—

May make reference to high court or chief court, s. 46.

Revenue court—Stamp on certificate of sale granted by sch. i., No 16,
See Court.**Revenue-officer—**

Stamp on sale-certificate granted by sch. i., No 16.

Revision—

of certain decisions of courts regarding sufficiency of stamps, s. 50.

Revocation—

of any trust, stamp on, sch. i., No. 56.

Right—

To shares, &c., stamp on certificate of sch. i., No. 17.

Rules—

Made under old Act to be deemed as made under this s. 2.

To be made by governor-general to denote duty, s. 15.

For the sale of stamps to be made by local government, s. 55.

To be made by governor-general for carrying out this Act, s. 56.

Publication of, s. 57.

To be made by governor-general as to how duties should be paid in certain cases, s. 9.

To be made by governor-general regarding description and number of stamps and size of hundi-paper s. 9.

To be made by governor-general for stamping instruments executed out of British India, s. 17.

To be made by governor-general fixing fees for opinion of collector. s. 32.

Sale—

of stamps and stamped papers, rules for, s. 55.

of government-security, &c., stamp over agreement relating to sch. i., No. 5.

of property sold by civil or revenue court, stamp on certificate of, sch. i. No. 16.

Of goods or merchandise, exemption of agreement for, sch. ii., No. 2.

Saving—

As to court-fees. s. 59.

Schedule—

Definition of, s. 3, cl. 18.

To be read as part of, s. 4.

Sea-going ship—

Stamp on bottomry-bond executed by master of, sch. i., No. 15.

Stamp on policy of, sch. i., No. 49.

Secondary instrument—

Stamp on, s. 6.

Second instrument—

Chargeable with duty not to be written on stamped paper on which instrument chargeable with duty has already been written, s. 13.

Security—

For due execution of office, stamp on bond or mortgage-deed executed by way of, sch. i., No. 14.

Stamp on bottomry-bond whereby master borrows money on ships, sch. i., No. 15.

Securities—

Of government exempt on being transferred, sch., ii. s. 17.

Service—

Exemption of agreement for, in British Burma, sch. ii. No. 2.

Set—

of bills or marine policies, penalty for not drawing full number of, s. 66.

Settlement—

Definition of, s. 3, cl. 19.

Persons to pay duty on instrument of, s. 29.

Stamp on instrument of, sch. i. No 57,

Several descriptions—

Stamp on instruments coming within. s. 7.

Several distinct matters—

Stamp on instruments relating to, s 7.

Several instruments—

Used in single transactions stamp on, s. 6.

Ship—

Stamp on protest by master of, when attested by notary-public, see *Notarial act*, sch. i., No 45.

Shipping-order—

Stamp on, sch. i. No 58.

Short title—

s 1.

Share—

Stamp on agreement relating to sale of, sch. i., No 5.

Stamp on certificate of title to, sch. i. No 17.

Stamp on letter of allotment of, sch. i. No 40.

See *Company*.

Scrip—

Stamp on certificate of title to, sch. i., No 17.

Receipts for sums paid in respect of calls on, sch. ii. No 15.

See *Company*.

Sight—

Stamp on bill or note payable more than one year after date or, sch. i. No. 11.

Single transactions—

Duties on several instruments used in, s. 6.

Stamp on power to register one or more documents relating to, sch. i. No 40.

Size—

Of Paper on which hundis are to be written, s. 6.

Soldiers—

Exempted from giving stamped receipts for pay, &c. sch. ii. No 15.

Receipts given by holders of family-certificates of, exempt, *ib*.

Specification—

Of invention, stamp on petition for leave to file, sch. i., No. 48.

Spoiled stamps—

Allowances for, ss. 51—54.

Stamps—

Only one instrument to be on the same, s. 13.

Who are to bear the expense of providing the proper, s. 29.

Where value of subject-matter is indeterminate, s. 26.

Stamp-duties—

Provisions relating to, ss. 5—29.

Stamp-law—

Prosecution for offence against, s 40.

Stamp-papers—

Allowances for spoiled, ss. 51—54.

Rules for sale of, s. 55.

Stamps—

Duties to be paid by means of s. 8.

Use of adhesive, s. 10.

Cancellation of adhesive, s. 11.

Instruments stamped with impressed, how to be written, s. 12.

Adjudication of proper, ss. 30—32.

Fee for adjudication of, how to be paid, s. 32.

Revision of certain decisions of courts regarding sufficiency of, s. 50.

Local government to make rules for sale of, s. 55.

Penalty for failure to cancel adhesive s. 62.

Stamp-seller—

Rules as to duties and remuneration of, s. 55.

Penalties on, s. 68.

Stock—

Stamp on certificate of title to, sch. i. No. 17.

Duty on, how to be valued, s. 21.

Stamp on note or agreement sent by broker or agent to principal intimating purchase of, sch. i., No. 46.

Suit—

Stamp on appraisalment or valuation made otherwise than under order of court in the course of a sch. i., No. 7.

Sufficiency of stamps—

Revision of certain decisions of courts regard, s. 50.

Surrender of lease—

Stamp on, sch. i., 59.

Exempt when such lease is exempt, sch. ii., No. 16.

Sureties—

Of middlemen taking advances for cultivating poppy exempted from giving stamped bond, sch. ii., No. 8.

Of persons taking advances under the Land-improvement Act exempted from giving stamped bond, sch. ii., No. 12.

Of government-officers exempted from giving stamped bond for due execution of office, sch. ii., No. 12.

Survey-number—

Exemption of agreement made regarding occupancy of land denoted by, sch. ii., No. 2.

Taxes—

Receipts for, exempted when collected by headmen or lambardars, sch. ii., No. 15.

Tenders of loan—

To government exempt, sch. ii., No. 2.

Time—

Of stamping instruments, ss. 16—18.

For applying for refund of spoiled stamps, s. 51.

Title—

Stamp on warrant for goods evidencing, sch. i., No. 61.

To shares, stamp on certificate of, sch. i., No. 17.

Title-deeds—

Stamp on instrument of loan relating to deposit of, sch. i., No. 29.

Transfer—

Stamp on instrument of, sch. i., No. 60.
In consideration of debt how to be charged, s. 24.

Transfers by endorsement—

Of bills, cheques, or notes, exempt, sch. ii., No. 17, cl. a.

Of bills of lading exempt, *ib.*, cl. b.

Of policies of insurance exempt, *ib.*, cl. c.

Of mortgages of rates and taxes exempt, *ib.*, cl. d.

Of securities of government, *ib.*, cl. e.

Of warrants for goods, *ib.*, cl. f.

Translations—

Of Act, s. 60.

Trial—

Of offences against the stamp-law, place of, s. 71.

Trust—

Stamp on declaration of, sch. i., No. 25.

Stamp on revocation of any, sch. i., No. 56.

Trustees—

Stamp on power appointing, sch. i., No. 6.

Tug-steamer—

Agreement for hire of, not included in charter-party, sch. i., No. 18.

Unstamped—

Instrument bearing uncanceled stamp deemed, s. 11.

Instrument written contrary to s. 12 or 13 deemed, s. 14.

Urgent necessity—

Collector how to deal with instruments not duly stamped owing to, s. 36.

Use—

Of adhesive stamps, s. 10.

Valuation—

Stamp on, sch. i., No. 7.

For duty, ss. 19—28,

In case of annuity, s. 25.

Made otherwise than under order of court in the course of a suit, stamp on, sch. i., No. 7.

Vakil—

His enrolment to be on adhesive stamp s. 10.

To pay what duty on enrolment, sch. i., No. 27.

- Previously enrolled in a high court exempted from duty on being enrolled in another high court, sch. ii, No. 11
- Vellum—**
Included in paper, s. 3. cl. 14.
- Vessel—**
Definition of s. 3. cl. 20.
Stamp on instrument relating to hire of, sch. i., No. 18.
Stamp on shipping order relating to conveyance of goods by, sch. i., No. 58.
- Village—**
Stamp on agreement where owner, or occupier relinquishes his right to land in Bombay, sch. i. No. 5.
- Voyage—**
Stamp on protest by ship-master when attested by notary-public, *Notarial act*, sch. i. No. 45.
- Vote—**
Stamp on proxy to, sch. i., No. 51.
- Warrant for goods—**
Stamp on, sch. i. No. 17.
- Exemption of transfer of, sch. ii, No. 17,
- Written—**
Definition of, s. 3. cl. 21.
How instrument stamped with impressed stamp to be, s. 13.
- Writing—**
Definition of, s. 3. cl. 21.
- Will—**
Stamp on declaration of trust when made by a writing other than a sch. i., No. 26.
- Ware-house—**
Stamp for warrant for goods lying at any, sch. i., No. 61.
Stamp on delivery-order for goods lying at any, sch. i., 26.
- Warf—**
Stamp on warrant for goods lying at any, sch. i., No. 61.
Stamp on delivery-order for goods lying at any, sch. i. No., 26.
- Voyage—**
Stamp on bottomry-bond to enable master to prosecute, sch. i., No. 15.

map laws
nation to 4. Unless it clearly appears that there was an intention to evade the payment of stamp duty, a Court ought not to reject an unstamped document tendered in evidence which the law required to be stamped.—3, Bom. H. C. Rep. (O. C. J.) 153.

5. Where a bond contained the following clause :—“ And inasmuch as we are urgently in want of money and are unable to procure a stamp at the moment, we have executed the bond on plain paper. Should it be necessary for you to bring a suit against us, whatever penalty you may have to pay shall be made good by us, with interest,” and the Small Cause Court, where a suit was brought upon it, considered the above clause to be evidence of an intention to evade Stamp Laws, and refused to receive evidence to the contrary and also to receive the bond in evidence, the High Court held that the clause in question did not amount to an agreement to evade the Stamp Laws, that the Judge might have inferred from it that it was the intention of the parties to evade the Stamp Laws, but in that case he should have heard evidence to the contrary.—3, B. L. R. (A. C.) 329; 11, W. R., 553.

ver of a Cause
Judge 6. It is competent to the Judge of a Small Cause Court, under sections 15 and 17, Act X. of 1862, to find on the facts before him whether the absence of a stamp on the leaf of a Khattah book adduced as evidence was owing to an intention to evade payment of the stamp duty, without the necessity for a reference to the High Court.—13, W. R., 102.

apt of duty
Penalty
sequent
of the
on to
stamp 7. Where a Judge admitted an unstamped document after payment of stamp duty and penalty under section 20 of Act XVIII of 1869, and endorsed on it a certificate that the proper stamp duty had been levied, but found out afterwards that the original omission was owing to an intention to evade payment of stamp duty,—Held that the certificate was not such as was contemplated by section 20, and did not make the document admissible, and that the Judge ought, under section 22, to have impounded the document and sent it to the Collector.—24, W. R., 88.

up duty
to be
ned. 8. In determining the stamp to be affixed to a document the state of things at its execution is alone to be regarded.—1, Madras H. C. R., 226.

of an
sent—
mer—
ture. 9. In determining the stamp required for any particular instrument, regard must be had to the real nature of the instrument, and not to the title which may have been given to it by the parties, if the contents of the instrument show that the title is a misnomer. The discretion vested in a Court of Justice must be exercised in a sound and reasonable manner; and a capricious and unreasonable exercise of discretion on the part of a Court of First Instance in an error in law, which it is the duty of an Appellate Court to correct.—3, Bom. H. C. R. (A. C. J.) n 94

10. In applying the Stamp Law, the Stamp duty must be paid upon what is stated in the instrument and cannot depend on collateral evidence.—14, W. R. (O. J.) 38.

Stamp Duty
— Statement
in the Instru-
ment— Colla-
teral evidence.

11. Thus a promissory note payable on demand ought to be stamped as such, although there may be a collateral agreement between the parties that the holder will not present it for a given time, or, if paid on demand, that the maker of the note shall be entitled to a certain amount of discount being deducted.—16.

Promissory
Note— Colla-
teral agree-
ment.

12. S. 17 of Act X. of 1862 only applies to the reception of documents under sec. 15, which have been insufficiently stamped, not to documents on which there is no stamp. Such documents should not be received at all.—3, B. L. R. (A. C.) 235; 12, W. R., 47.

Unstamped
documents—
Their inad-
missibility.

13. Act XVIII. of 1869 allows the Civil Court to receive the proper amount of stamp duty not only in cases of insufficiency of stamps, but also where documents have not been stamped at all.—15 W. R., 116.

Do.—Their
admissibility.

14. A Judge has no authority to admit an unstamped document in evidence except under the conditions prescribed in Act XVIII. of 1869, even when it was executed before the date when that Act came into operation.—21, W. R., 446.

Do.

15. An arbitrator is not bound by technical rules of Court. He is appointed to give an equitable award, and can decide a case upon a document whether stamped or unstamped.—1, W. R., 12.

Unstamped
document be
fore Arbitra-
tor.

16. A document is receivable on being duly stamped, and as bearing the stamp required by the law, for the purpose of the trial in which the document is tendered in evidence; and it is no business of the Court to enquire what time the stamp was fixed, or whether the provision of the stamp law was duly observed, which is a matter connected with the law as to penalties.—24, W. R., 198.

Court need
not enquire
what time a
stamp was
fixed on a do-
cument.

17. Where a plaintiff declines to pay the stamp duty and penalty on an unstamped document, the Court, instead of dismissing the suit, should enquire into the merits on the rest of the evidence produced in the case.—W. R. Sp., 321.

Declining to
pay stamp-du-
ty and penalty.

18. Even if the document were not admissible, plaintiff might recover on such part of the case as he could make out by other evidence (provided it is not barred by limitation) notwithstanding that he had in his plaint referred to such document as the basis of his suit.—24, W. R., 198.

Procedure
when docu-
ment inadmis-
sible.

19. A document tendered in evidence cannot be rejected as not being properly stamped, without a formal order rejecting it and a direction to pay in the stamp duty and fine.—25, W. R., 116.

Rejection of
unstamped do-
cument.

Power of Civil Court to receive stamp duty.

20. The Civil Court is authorized, under Act XVIII. of 1869, to receive the proper amount of stamp which should have been affixed on a plaintiff's patta under the law in force when it was executed.—6, B. L. R. Ap., 117.

Authenticated and Unauthenticated copies.

21. The Stamp Acts do not recognize any distinction between authenticated and unauthenticated copies. Copies which the law requires to be on stamp paper can only be granted on stamp paper.—4, Mad. H. C. R., 57.

Unstamped copy of a document.

22. The mere omission to stamp a copy of a document, the original of which is the basis of a suit, does not justify the dismissal of the suit.—6, W. R., 49.

Stamping an instrument after its execution.

23. Under Regulation XVIII. of 1827, a party has a right to have stamped, on payment of the prescribed penalty, an instrument executed before 1st January 1870, and a Civil Court should receive such instrument in evidence on being stamped, and cannot reject it on the ground of intention by the party to evade the stamp duty.—10, Bom. H. C. R., 358.

Secondary evidence of unstamped document inadmissible,

24. Secondary evidence cannot be given of a lost instrument requiring a stamp which was not stamped. *Quere*, whether permission to pay the stamp duty and penalty can be given in the case of a lost instrument.—4, Mad. H. C. R. 312.

Secondary evidence of a lost unstamped document.

25. Secondary evidence may be received of a lost deed shown to have been unstamped, on payment of the penalty that would have to be paid if the deed itself were produced.

Ground of special appeal. The admission of such secondary evidence without payment of the penalty is no ground for special appeal.—20, W. R., 63.

Unstamped document—Independent evidence.

26. The plaintiff, in a suit on a promissory note written on unstamped paper, is not debarred from giving independent evidence of consideration.—I. L. R., 3 Calc., 314.

Document containing distinct contracts

27. Where a document contained two distinct contracts requiring separate stamps, but the whole was impressed with one insufficient stamp, it was *held* that this stamp, might be taken into account in making up the aggregate of stamps required.—6, Bom. H. C. R., (A. C. J.) 95.

Ditto.

28. Where an instrument contains several distinct contracts, and as such requires several stamps, it may be used as evidence of one contract for which it was stamped, although it would not be admissible as evidence in respect of the contract for which it was not stamped.—12, W. R. (F. B.) 11.

Optional stamp.

29. No larger sum can be recovered under section 14 of Act XXXVI. of 1860 upon a bond executed on an optional stamp than is covered by that stamp, and no amount of penalty on the deficiency in the stamp duty.—17, W. R.

30. When a written contract liable to an optional stamp is put in evidence by the defendant, the plaintiff cannot recover a larger amount under it than (if stated) the optional stamp upon the instrument would have been sufficient to it. **Optional stamp—amount recoverable under stamp.** It makes no difference that defendants have admitted in their pleadings that a larger sum was due.—4, Mad. H. C. R., p. 120.

31. The transfer of an under tenure, endorsed upon the back of the tenant's patta, is not admissible in evidence, unless it be stamped, as though it were a separate deed.—**Transfer of an under-tenure endorsed upon the back of a pottah inadmissible without stamp.** 3, B. L. R. Ap. 30; 11, W. R., 365.

32. An unstamped instrument executed in foreign territory and valid under the law of the place of execution is admissible as evidence in Courts of British India, provided it does not affect any property situated in British India (Act XVIII. of 1869, s. 4).—7, Bom. H. C. R. (A. C. J.) 140. **Instrument executed in foreign territory admissible in evidence.**

33. An agreement was first executed in England by D and E and A the senior partner of a firm, and stamped with the stamps required by the English Law, and it was subsequently executed in India by B and C, the other two partners, but not stamped with an Indian stamp. *Held* the agreement was liable to Indian stamp duty and not admissible in evidence without the proper duty and penalty under Act XVIII. of 1869.—I. L. R., I., Mad., 134. **Instrument partly executed in England and partly in India—Liability to stamp duty.**

34. Under the Old Stamp Law, agreements executed in Calcutta by parties residing or carrying on business there, without the intention of pleading the documents in the Mofussil Courts, were good and binding.—W. R. Sp., 289 (L. R., 69). **Agreements by mofussil residents executed in Calcutta.**

35. A document which, by law, requires one anna adhesive stamp to be affixed must be received in evidence, if at the time of its being tendered, it bears the requisite stamp, even though such stamp had been affixed subsequently to the execution of the document.—12, Bom. H. C. R., 208. **One anna adhesive stamp affixed after the execution of a document but previous to the document being tendered in evidence.**

36. An agreement to supply cotton in consideration of a sum of money received should be stamped under Art. 4, and not under Art. 15, Sch. A. Act. X. of 1862.—5, Bom. H. C. Rep. (A. C. J.) 151. **Agreement to supply cotton.**

37. A donee of the grantor is a third party within the meaning of Reg. XVIII. of 1827, sec. 14, cl. 1, and therefore as against him a deed of sale of the property given in gift is only valid from the date on which it was stamped. Precedents on this point questioned but followed.—5, H. C. Rep., A. C. J., 217. **Deed of sale—Donee of the grantor.**

38. An instrument which purports to convey two or more properties for a sum of money, composed of items described in the instrument as the values of those properties is simply a deed of sale coming under the definition of "Conveyance". **Deed of conveyance.**

The stamp duty properly

leviable upon such an instrument should therefore be calculated upon the aggregate sum specified therein and not upon the various items composing that sum.—10, Bom. H. C. R., p. 354.

Sale Certificate.

39. Certificates of sale issued under ss. 35 and 40 of Madras Act XVIII. of 1865 are not Conveyances subject to stamp duty.—8, Mad. H. C. R., 112.

Deed of sale—Schedule appended to.

40. A Schedule appended to a deed of sale does not require to be stamped under the provisions of Act XVIII. of 1869.—6, Madras High Court Reports, Ap. 36.

Deed of conveyance—Indemnity clause

41. Where a document purporting to be a conveyance, and for only one consideration, contains words which merely express, though very informally, the usual covenants for title which every properly drawn English conveyance contains, those words cannot be considered as constituting an indemnity bond so as to render the document liable to stamp duty as an indemnity bond in addition to the stamp duty to which it is liable as a conveyance.—I. L. R., 1, Mad., 133.

Promissory note.

42. A promissory note is sufficiently stamped, if the stamp covers the principal sum named in the note without reference to the interest.—2, B. L. R., O. C., 165; 12, W. R., O. J., 1.

43. A promissory note insufficiently stamped is not receivable in evidence upon payment of a penalty.—7 Mad. H. C. Rep., 361.

44. In a suit brought on the following document, dated 25th October, 1869 :—"Whereas I, defendant, have borrowed Rs. 1,500 from you without interest without a bond hence I declare that I shall repay, on or before 15th Falgoun, the whole amount as one sum and take back this chitta : should I fail to repay the amount in question on the above date, I will pay interest on the same,"—it was objected that the document being unstamped under s. 3, Act X. of 1862, the Stamp Act in force at the date of its execution, it was inadmissible in evidence ; and it was contended for the plaintiff that it was admissible on payment of the penalty. The Judge applied s. 28, Act XVIII. of 1869, and held he had no power to receive it on payment of the penalty. *Held*, the Judge was bound to comply with Act XVIII. of 1869, and was therefore right in refusing to receive the document. *Held* also, the document was a promissory note within s. 28, Act XVIII. of 1869.—13, B. L. R., Ap., 33; 21, W. R., 446.

45. An instrument to the following effect : *On 4th December 1861, A. and Co., bind ourselves to pay with interest to you B. and Co., Rs. 566-10-0, being the balance of dealings held with your firm and the amount received from you this day on account of stamps. Held*, to be neither a bond nor a hundi, but to be in the nature of a promissory note and to come within the description in Clause 4, Schedule A. of Act XXXVI. of 1860.—1, Mad. H. C. R., 152.

46. A. B., by an instrument in writing dated 6th August, promised to pay C. D., "on demand," Rs. 4,310-13-3. In the margin of the instrument was written "due 20th August," and annexed to A. B.'s signature was the following memo. :—
 "The sum of Rs. 4,310-12-6 only, forty-five days from the 5th of August." *Held*, that the instrument was properly stamped as a promissory note payable on demand, and ought to have been admitted in evidence. *Per* Peacock, C. J.—A promissory note payable on demand ought to be stamped as such, notwithstanding there may be a collateral agreement between the parties that the holder will not present it for a given time, or if paid on demand that the maker shall be entitled to discount.—5, B. L. R., 103; 21, W. R., 446. Promissory note.—(contd.)

47. A promissory note containing an agreement by the maker that, in case of any dispute or difference arising concerning the payment of the note or the subject-matter thereof, the same shall and may be sued in the Supreme Court, and "to the jurisdiction of which I hereby waive and agree to waive all pleas," properly stamped as a promissory note, does not require an additional stamp as an agreement under Act XXXVI. of 1860, Sch. A., and section 14.—1, Indian Jurist, O. S., 124. Do.

48. Where the wording of a promissory note bearing a one-anna stamp appears to be ambiguous as to whether it is payable on demand, the Court will take the evidence of the parties as to the intention, and will then decide whether it is properly stamped. Under such circumstances the Court will take evidence of usage.—1, Indian Jurist, N. S., 107. Do.

49. A promissory note attested by witness does not require to be stamped as a bond under Act X. of 1862, Sch. A., clause 10. The words in that clause "not being a bond, instrument, or writing bearing the attestation of one or more witnesses," refer only to the preceding words "other order or obligation for the payment of money." Also the words "bearing the attestation of one or more witnesses" apply only to the words "instrument or writing," and not to the word "bond."—2, Indian Jurist, N. S., 203. Do.

50. The plaintiff, in a suit on a promissory note written on unstamped paper, is not debarred from giving independent evidence of consideration.—I. L. R. 3, Calc., 314. Do.

51. A promissory note payable on demand which is not stamped, according to Act XVIII of 1869, cannot be used in evidence.—2, L. C. Civil Rulings, p. 40. Do.

52. Under s. 28 of Act XVIII of 1869 a Court has no power to admit in evidence an unstamped promissory note (payable on demand or otherwise) upon the payment of stamp-duty, and the penalty laid down in s. 20 of that Act.—8, Bom. H. C. R. (O. C. J.) p. 180; 21, W. R., 1. Do.

Promissory
note.—(see
ante.)

53. If an instrument of the nature of a promissory note or the like, and as such liable to stamp-duty, is not duly stamped, the person subject to the penalty is he who makes it, and not he in whose favour it is made.—24, W. R., Cr.; 1.

Do.

54. In a suit brought by a Joint Stock Company in liquidation against a former director of the Company for Rs. 27,30,000, on a promissory note dated the 1st of March, and purporting to be payable on demand, but with the words in pencil: "Due 4th June," put on it the same day it was signed, in accordance with an understanding between the defendant and the other directors that they would not press him for payment before the latter date, and signed by the defendant some days after the day it bore date :—*Held* that a one-anna stamp was not sufficient, under Sch. A., cl. 10 of Act X of 1862.—3, Bom. H. C. Rep., p. 9.

Promissory
note for grain

55. An instrument in the form of a promissory note for grain should be stamped under Act I, Sch. A. of Act X of 1862, with a one rupee stamp.—6, Bom. H. C. R., A. C. J., p. 107.

Bond.

56. A bond written partly on one and partly on another stamp-paper, the two aggregating the proper stamp leviable, but without the certificate required by s. 49 of Act XVIII. of 1869 is insufficiently stamped. The deficiency is the difference between the value of the stamp on one of the papers and the whole value chargeable—7, Mad. H. C. R., (App.) 36.

Do.

57. The objection that a bond was engrossed on an 8 annas' stamp threaded to other stamps aggregating the full value, was held to be merely technical.—13, W. R., 41.

Do.

58. A bond stamped subsequently to the institution of a suit is valid, under the provisions of the Civil Procedure Code and of the Stamp Acts of 1860 and 1862, provided it is properly stamped when produced at the first hearing of the suit, and when the Court is asked to receive it in evidence.—3, Bom. H. C. R. (A. C. J.) 92.

Do.

59. A bond or other writing stamped after the death of the grantor is valid against his heirs. The personal representatives or other persons claiming as heirs of, or kindred of a deceased grantor stand as regards ss. 13 and 14 of Reg. XVIII. of 1827 in the same position as the deceased grantor would have stood, and are not third parties within the meaning of s. 14.—1, Bom. H. C. Rep., 52.

Bond—Cl.
II Sch. II of
Act XVIII. of
1869.

60. The plaintiffs drafted the following letter, dated 5th of June, 1871, sent it to the defendant for signature :—"I have sold to you 500 to 700 cases of first quality of hogs' lard of my manufacture and mark, at Rs. 43 per case of eight tins of ten seers each, or two bazar maunds nett, as usual, delivery to be given and taken in all twelve months, as it is prepared, by instalments of forty to sixty cases at a time

from my manufactory, commencing from this day. Cash on delivery of each lot. I engage not to sell any hogs' lard to any party besides yourselves, nor to make any shipments during the term of this contract without first obtaining your consent in writing, or I will render myself liable to yourselves to a penalty of Rs. 5,000 by way of liquidated damages, without prejudice to your other rights. Should I fail to deliver the hogs' lard to you according to this contract, and should you fail to take delivery in any month of any of the instalments of hogs' lard when ready and after I have given you notice in writing, you must render yourselves similarly liable to a penalty of Rs. 5,000 as and by way of liquidated damages." This letter was signed by the defendant, and, as the plaintiffs alleged, formed the contract between them. The letter bore a stamp of one anna. In an action for a breach of the contract, it was tendered in evidence by the plaintiffs, and objection was taken to it that it was insufficiently stamped, that it required an *ad valorem* stamp as being a bond for the payment of money under Act XVIII of 1869, Sch. I. *Held*, it was a document which required an eight-anna stamp only under cl. 11 of Sch. II of the Act, and the document was admitted on payment of the stamp and penalty.—7, B. L. R., 510.

61. A signed account showing a balance up to date, and containing a promise to pay interest upon the consolidated balance, cannot be made use of in evidence to support a claim to interest on that balance, unless it be stamped; but it may be used as a *samsdaskbat* or simple admission of a balance due although not stamped.—1, Bom. H. C. Rep., 47.

62. In a running account, a balance brought forward from the close of a previous year is not to be considered a *new* balance requiring a fresh stamp; Art. 5, Sch. II of Act XVIII of 1869 providing for one stamp only to be affixed in such a case.—24, W. R., 439.

63. A *hat-chitta*, drawn up by only one of two parties to a money transaction, and purporting to represent the balance of accounts between them, but not assented to in any way by the other party, is not such a document as is contemplated by Article 5, Sch. II, Act XVIII of 1869, and does not require to be stamped.—25, W. R., 361.

64. A document executed by A, an Abkarry renter, stipulating that in consideration of 2,000 Rupees advanced by B, the whole management of the Abkarry farm should reside in B and that the parties should each have a half share and be respectively entitled and liable to profit and loss in respect of his share, was held to be properly stamped as a partnership agreement.—1, Mad. H. C. R., 226.

A signed account containing a promise to pay interest upon consolidated balance.

Balance of a running account.

Hat-chitta.

Partnership agreement.

- Vakalatnamah.** 65. A vakalatnamah authorizing a pleader to receive money during the course of a suit does not require a stamp under Act XVIII of 1859.—I. L. R., 3, Calc., 767.
- * Power to collect and sue for rent. 66. A sanad which authorizes a gomasta to collect rents, and to sue for them, requires to be stamped.—1, (B. L. R.) F. B. Rulings, p. 55; 10, W. R. (F. B.) 39; see 11, W. R., 43.
- Do. 67. An instrument authorizing A to collect certain debts is a power-of-attorney, and as such is properly stamped under Act X of 1862 with a stamp of Rs. 4.—7, Bom. H. C. R. (A. C. J.) 10.
- Will. 68. Reg. XVIII of 1827 does not require a will to be stamped during the testator's life time.—2, Bom. H. C. R., 55.
- Deed of adoption. 69. A document purporting to be a deed of adoption does not require to be stamped.—4, Bom. H. C. R., (A. C. J.) 191.
- Agreement between mortgagor and mortgagee—Contract of indemnity. 70. Where an agreement between a mortgagor and mortgagee contains a stipulation that the mortgagor should, at the time of redemption, make good the losses arising to the mortgagee from the default of tenants which it had been agreed the mortgagee might put in, in case the mortgagor made default in payment of the rent agreed upon for the term of the mortgage; such an agreement is not a lease or the counterpart of a lease, within the meaning of Regulation XVIII of 1827, s. 10, cl. 3, but is a contract of indemnity against losses to be incurred after the determination of the lease, which, not having any operation so long as the lease is in existence, is not exempt from stamp duty under that Regulation.—10, Bom. H. C. R., 441.
- Mortgage—Return of *ikrar*—No deed on stamp necessary. 71. Where the transaction on the face of a deed of mortgage was an absolute sale, and an *ikrar* was executed at the same time as the mortgage reserving the equity of redemption to the mortgagor, and it was admitted that the *ikrar* was in the possession of the mortgagee although it was alleged by the mortgagor that the *ikrar* had been lost and had somehow or other found its way into the hands of the mortgagee,—Held that the effect of the return of the *ikrar* to the mortgagee was to extinguish the equity of redemption without the necessity of executing a separate document requiring a separate stamp; also that the presumption of law was in favor of the mortgagee who had possession of the *ikrar* and that the *onus* of proving its loss was upon the mortgagor.—11, W. R., 151.
- Solehnamah. 72. A *solehnamah* admitting a claim and agreeing to pay by instalments is not a petition within the meaning of Art. 10, Act XXVI of 1867, but an agreement within the meaning of Sch. A, Act X of 1862.—8, W. R., 214.

73. A *razeenamah* stating satisfaction of claim, and with- Razeenamah.
drawing a suit upon a bond, is more an application than an
agreement.—8, W. R., 214.

74. A contract taken by the Public Works Department Contract by
for the execution of works falls within Article 11, Sch. II of P. W. D.
Act XVIII of 1869.—13, W. R., 353.

75. Where a contractor's sureties give bonds for the per- Surety bond.
formance by him of his agreement, the bonds are chargeable
with stamp duty under Art. 5, Sch. I.—16.

76. Security bonds for costs of appeal to the Privy Coun- Security bonds
cil come within Art. 12, Sch. A, Act X of 1862, and ought for costs of
to be executed on a stamp as therein specified.—5, W. R. appeal to Pri-
Mis., 47. vy Council.

77. The security bond executed by a third party to an Security
Abkary renter is not exempt from stamp duty under Sch. A bond.
of Act XXXVI of 1860.—1, Mad. H. C. R., 19.

78. No *ad valorem* stamp duty is payable under Act Conveyance
XVIII of 1869 upon a conveyance where the consideration of shares of a
consists of shares in a Public Company.—16, W. R., 208. Public Com-
pany.

79. A substituted lease must be stamped with the stamp Substituted
provided for a lease.—20, W. R., 36. Lease.

80. A *mourossee pottah* is not required to be written on Mourossee
stamped paper.—3, W. R. (Act X) 143. Pottah.

81. Orders upon tenants to hold themselves responsible Orders upon
to a particular person to whom a release has been made by tenants.
the landlord, are not documents requiring to be stamped in
order to be admissible in evidence.—25, W. R., 80.

82. An instrument which acknowledged receipt of a sum Instrument
of money and provided for the payment of interest at a speci- acknowledg-
ed rate per mensem, was held to be an agreement falling ing receipt of
within Art. 11, Sch. II of Act XVIII of 1869.—23, W. money and
R., 403. providing for
payment of
interest.

83. A map is not admissible in evidence unless it is Map.
tamped.—15, W. R., 180.

84. A letter by which a chose in action (a debt) was Letter by
quitably assigned did not require a stamp where the chose which a chose
in action was not in British India at the time of the assign- in action is
ment.—8, Bom. H. C. Rep. (O. C. J.) 169. assigned.

85. A letter containing an admission does not require Letter.
stamp before it can be admitted as evidence.—23, W.
R., 325.

86. An ordinary intimation which a Bank gives to its Bank's inti-
customer, that a certain sum has been paid by a third person mation of re-
his credit is not a receipt contemplated by the Stamp Act ceipt of mo-
VIII of 1869 and does not require a stamp.—*Englishman*, ney.
February 19, 1879.

87. The word "amount" in Art. 15, Sch. I of Act XVIII "Amount"
1869 signifies the sum total, or amount of money, forming "or secured"
a consideration; and the words "or secured" apply only in Act XVIII
of 1869. of 1869.

to cases of mortgages and the like, and not to an out and out conveyance.—16, W. R., 208.

Unstamped Documents—Court of First instance—Appellate Court. 88. An Appellate Court has no power to reverse the judgment of a Court of first instance, merely on the ground that the document on which the suit was based did not bear a stamp at all.—5, B. L. R. Ap., 10.

Do. 89. The fact that the document was received in evidence without a stamp is no reason for reversing the decision in appeal.—3, B. L. R. A. C., 126; I. L. R., 3, Calc., 787; I. L. R., 1, All., 725; 25, W. R., 80.

Do. 90. When the Court of first instance admitted, without objection, unstamped receipts in evidence, but the Judge on Appeal rejected the documents, and reversed the decision of the lower Court,—*held*, that the documents once received without objection were wrongly rejected, and the decision below wrongly reversed on appeal, as the irregularity was not one affecting the merits of the case under s. 350, Act VIII of 1859; and that the Court had no power to receive the documents on payment of the stamp duty and penalty under s. 17, Act X of 1862.—3, B. L. R., A. C., 235; 12, W. R., 47; 14, W. R., 68; 15, W. R., 179; 23, W. R., 170; 25, W. R., 554; see also W. R. Sp., 184; 11, W. R., 520; 16, W. R., 6; 25, W. R., 376; 8, W. R., 367; 7, B. L. R., 653.

Do. 91. The decision of a Court of first instance as to the admissibility of a document subject to the payment of stamp duty is final and cannot be reversed by the Appellate Court.—2, Mad. H. C. R., 321.

Do. 92. It is open to an Appellate Court to consider the question whether a document which the Court of first instance has declared to be liable to a stamp is properly so liable.—3, Mad. H. C. R., 71.

Do. 93. Where the objection is taken for the first time in special appeal that a document which according to Act X of 1862 ought to have been stamped has been admitted by both the Lower Courts unstamped, the High Court is bound to take notice of the objection (although not one of the grounds set forth in the petition of appeal) and require payment of the stamp duty and penalty or to reject the document.—3, Mad. H. C. R., 297.

Do. 94. A District Court refused to allow, under Act XVIII of 1869, s. 20, an insufficiently stamped document to be admitted on payment of the full amount of stamp duty and the penalty on the ground that it was wilfully executed in fraud of the Stamp Law. *Held* that the High Court cannot in special appeal question the correctness of the District Court's refusal.—10, Bom. H. C. R., p. 406.

Do. 95. *Held* that an appeal lies to the High Court from the decision of a Judge in a Division Court rejecting a document, tendered in evidence under s. 17, cl. 1 of Act X of 1862 on

the ground that there had been an intention to evade the payment of stamp duty. The point upon which the decision of that Court is to be final, under s. 17 of the Stamp Act (X of 1862) is as to what is the proper amount of stamp duty which the document ought to bear, and is not whether the Court ought or ought not, to receive the document in evidence.—3, Bom. H. C. R. (O. C. J.) 153. Appellate Court.

96. Where no application was made to the Lower Court to receive unstamped receipts for rent on payment of the stamp duty and penalty, the Appellate Court cannot order their admission on such payment.—7, W. R., 439. Do.

97. Under cl. 1, s. 17, Act X of 1859, no special appeal lies from the order of a Judge admitting an insufficiently stamped pottah on payment of full stamp duty and penalty.—3, W. R. (Act X) 158. Do.

98. In a case the Privy Council considering, that, under the circumstances, the Court below should have allowed the defendant to get his documents stamped, and, if necessary, should have adjourned the hearing for that purpose, remanded the suit, to enable the defendant to get the instruments stamped.—10, Moore's Indian Appeals, 438. Do.

99. In a case the respondent in settlement of family differences, executed in favor of the Appellant, his elder brother, a deed of release as to certain family property—which was subsequently held to be a valid family contract between the two brothers—written upon unstamped paper, and containing an agreement for subsequent stamping, and which was afterwards stamped with an insufficient stamp of two annas. In a subsequent suit by the respondent against the appellant in which it was desired to use the document in evidence, the respondent in the Court of first instance disputed the deed of release on the ground of genuineness only, but, in the Appellate Court, he also objected to its admissibility in evidence as being insufficiently stamped, and his objection was over-ruled. On appeal to the High Court of Bombay, that Court ruled, that, the deed of release was valid only to the extent of the value covered by the two-anna stamp, and that to this extent it operated to reduce the respondent's claim. Held, that, admitting the stamp was insufficient, there were two courses which ought to have been taken by the High Court. The Court might have refused to admit the document for want of a proper stamp. That it was not said that that would have been a correct course, but that it would have been a possible course, or they might, under the Acts and Regulations for that purpose have required the document to be properly stamped, and the penalty paid. That, as to rejecting the document *in toto*, there was the serious difficulty, that there did not appear to have been any objection raised to its admission in the Court of first instance. Admission of an insufficiently stamped document by the Court of the First Instance without any objection—Subsequent objection in the Appellate Court—the holding of the High Court to the effect that the deed would operate to the extent of stamp duty on it set aside as without precedent, principle or authority.

and that it was difficult to see, had that being the case, it would have been a just course to have rejected *in toto* the document in the Court of last appeal. That the Court of last appeal in India, did not take either of these courses. It did not reject the document, nor did it do, what obviously would have been the correct course, require the deed to be properly stamped, and the penalty paid, but left the deed as part of the evidence in the suit, just in the way in which it had been placed among the evidence by the Court of First Instance, and it qualified its effect, and the extent of its operation, by making it a deed of release, releasing so much of that which the plaintiff might otherwise claim, as would be covered by the insufficient stamp of two annas, a course apparently entirely without precedent, without principle and without authority.—Moore's Indian Appeals, vol. 14, p. 24; 15, W. R. (P. C.) 32.

Instrument of transfer. 100. A bond reciting "whereas A and B have sold to me 2 gandas 3 cowries of land under a kobala dated the 9th of Jeyt, 1283, in lieu of consideration for Rs. 695, and whereas under s. 29 of Act XVIII of 1869, I have returned to the vendors in all 4 cottahs of land worth about Rs. 25, and whereas in lieu of the said land the said vendors have given me 4 cottahs of zeraït land held by them, now I or my heirs shall have no objection or contest whatever in regard to the mutual exchange of lands between the vendors and me the purchaser; hence I have executed this chitti by way of conveyance or deed of exchange, which may be of service when required" and bearing a stamp of eight annas, Held to be an instrument of transfer within the meaning of Art. 38, Sch. II of Act XVIII of 1869. Held also that a Magistrate is bound for the purpose of ascertaining whether any and what penalty should be imposed, to consider whether a person prosecuted under s. 29 had any intention to defraud by evading payment of stamp duty.—I. L. R., 2, Calc., 399 (F. B.)

Prosecution under the Stamp Laws—ss. 24 and 44 of Act XVIII of 1869. 101. That which the Magistrate has to adjudicate upon, on a prosecution coming before him under s. 24, Act XVIII of 1869, is whether an offence against the Act has been committed, and whether the prosecution has been brought before him by the proper officer. Any person who commits an offence within s. 29 *et seq.* and is prosecuted by the Collector or other officer duly empowered, may be convicted by the Magistrate under s. 44.—24, W. R., Cr., 1.

Collector cannot authorize a Magistrate to prosecute as well as to try offenders against stamp laws. 102. A Magistrate who has been authorized by the Collector of a district, under s. 43 of Act XVIII of 1869, to prosecute offenders against the stamp laws, is not competent also to try persons whom he prosecutes. The Collector should appoint some person other than a Magistrate to conduct the prosecutions.—I. L. R., 3, Calc., 622.

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APPENDIX B.

By Government Notification, No. 99, I. S., F. D., dated 22nd May 1879.

The Indian Stamp Act is extended to the territories of Mysore with certain modifications.

Financial Dept., No. 1141, I. J., dated 4th June 1879.

The Viceroy and Governor-General in Council extends the Indian Stamp Act, 1879, to the Haiderabad Assigned Districts with certain modifications.

By Notification, No. 119, I. J.

The Government of India extends the Indian Stamp Act, 1879, to the Cantonment of Secundrabad subject to modifications therein mentioned.

F. D. No. 1191, dated 13th June 1879.

In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council has remitted in the whole of British India the duty with which Bills of Exchange and Cheques drawn in the Haiderabad Assigned Districts, on which the full rate of stamp duty has been paid there, are chargeable under Section 5, clause (b) of the said Act.

By F. D. Notification, No. 1299, dated 20th June 1879.

The Government of India in exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, is pleased to remit in the whole of British India the duty which Bills of Exchange and Cheques drawn in the Cantonment of Secundrabad, on which the full rate of stamp duty has been paid there, are chargeable under Section 5, clause (a) of the said Act.

C. L. High Court, N. W. P., 13, dated 16th July 1879.

(Civil)

Stamp Act—Acknowledgment.

Attention is drawn to Act I of 1879, Schedule I, Art. 1.

At the instance of the Board of Revenue and the Government, the Court is pleased to direct the attention of all Civil Courts to Article 1, Schedule I of the Indian Stamp Act, 1879, which declares an acknow-

ledgment of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of a debtor, in order to supply evidence of such debt to be chargeable with stamp duty of one anna, when the book (other than a banker's pass-book) or paper in which the acknowledgment is so written or signed, is left in the debtor's possession.

2. It is believed by the Board of Revenue that unstamped acknowledgments falling under the corresponding Article of Act XVIII of 1869, have very frequently been admitted in evidence by Civil Courts.

F. D. Separate Revenue Stamps, No. 996, dated 6th June 1879.

In exercise of the powers conferred by Section 56 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to make the following rule:—

Rule.—When a single sheet of impressed stamp paper used under Rule 5 of the rules promulgated by Financial Notification, No. 169, dated 19th April 1879, is found insufficient to enable the entire instrument to be written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of the instrument; provided that in every such case, the side of the impressed stamp paper which bears the stamp, must be covered by a substantial part of the instrument, before any part of the latter can be written on the plain. This permission does not extend to hundis.

The 30th October 1879.

No. 1581 I.—G.—In exercise of the powers conferred by Section 8 of the Indian Stamp Act I of 1879, the Governor-General in Council is pleased to reduce to one anna the stamp duty payable under the said Act on agreements executed for service or for performance of work in the coffee plantations in Mysore, when the advance given under the agreement does not exceed rupees twenty.

No. 3645. Financial Dept.—Separate Revenue.

In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council has reduced to Rs. 275, the stamp duty chargeable on entry as a Vakil on the roll of any High Court under the letters patent constituting such Court of any person who was bound as a clerk to a Vakil of such Court, under Articles executed before the 1st April 1879, and the term of which was unexpired on that date.

R. B. CHAPMAN,

Secy. to the Govt. of India.

