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The
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Part I

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THE INDIAN STAMP ACT, 1899

CONTENTS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

STAMP-DUTIES

A.—Of the Liability of Instruments to Duty

3. Instruments chargeable with duty.
4. Several instruments used in single transaction of sale, mortgage or settlement.
5. Instruments relating to several distinct matters.
6. Instruments coming within several descriptions in Schedule I.
7. Policies of sea-insurance.
8. Bonds, debentures or other securities issued on loans under Act XI, 1879.
9. Power to reduce, remit or compound duties.

B.—Of Stamps and the mode of using them

10. Duties how to be paid.
11. Use of adhesive stamps.
12. Cancellation of adhesive stamps.
13. Instruments stamped with impressed stamps how to be written.
14. Only one instrument to be on same stamp.
15. Instrument written contrary to section 13 or 14 deemed unstamped.
16. Denoting duty.

C.—Of the time of stamping Instruments

17. Instruments executed in British India.
18. Instruments other than bills and notes executed out of British India.
19. Bills and notes drawn out of British India.

D.—Of Valuations for Duty

20. Conversion of amount expressed in foreign currencies.
21. Stock and marketable securities how to be valued.
22. Effect of statement of rate of exchange or average price.
23. Instruments reserving interest.
- 23A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.
24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.
25. Valuation in case of annuity, etc.
26. Stamp where value of subject-matter is indeterminate.
27. Facts affecting duty to be set forth in instrument.
28. Direction as to duty in case of certain conveyances.

E.—Duty by whom payable

29. Duties by whom payable.
30. Obligation to give receipt in certain cases.

CHAPTER III

ADJUDICATION AS TO STAMPS

31. Adjudication as to proper stamp.
32. Certificate by Collector.

CHAPTER IV

INSTRUMENTS NOT DULY STAMPED

33. Examination and impounding of instruments.
34. Special provision as to unstamped receipts.
35. Instruments not duly stamped inadmissible in evidence, etc.

SECTIONS

36. Admission of instrument where not to be questioned.
37. Admission of improperly stamped instruments.
38. Instruments impounded how dealt with.
39. Collector's power to refund penalty paid under section 38, sub-section (1).
40. Collector's power to stamp instruments impounded.
41. Instruments unduly stamped by accident.
42. Endorsement of instruments on which duty has been paid under section 35, 40 or 41.
43. Prosecution for offence against stamp-law.
44. Persons paying duty or penalty may recover same in certain cases.
45. Power to Revenue-authority to refund penalty or excess duty in certain cases.
46. Non-liability for loss of instruments sent under section 38.
47. Power of payer to stamp bills and promissory notes received by him unstamped.
48. Recovery of duties and penalties.

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Allowance for spoiled stamps.
50. Application for relief under section 49 when to be made.
51. Allowance in case of printed forms no longer required by corporations.
52. Allowance for misused stamps.
53. Allowance for spoiled or misused stamps how to be made.
54. Allowance for stamps not required for use.
55. Allowance on renewal of certain debentures.

CHAPTER VI

REFERENCE AND REVISION

56. Control of, and statement of case to, Chief Controlling Revenue-authority.
57. Statement of case by Chief Controlling Revenue-authority to High Court, Chief Court or Judicial Commissioner's Court.

SECTIONS

58. Power of High Court, Chief Court or Judicial Commissioner's Court to call for further particulars as to case stated.
59. Procedure in disposing of case stated.
60. Statement of case by other courts to High Court, Chief Court or Judicial Commissioner's Court.
61. Revision of certain decisions of Courts regarding the sufficiency of stamps.

CHAPTER VII

CRIMINAL OFFENCES AND PROCEDURE

62. Penalty for executing, etc., instrument not duly stamped.
63. Penalty for failure to cancel adhesive stamp.
64. Penalty for omission to comply with provisions of section 27.
65. Penalty for refusal to give receipt, and for devices to evade duty on receipts.
66. Penalty for not making out policy, or making one not duly stamped.
67. Penalty for not drawing full number of bills or marine policies purporting to be in sets.
68. Penalty for post-dating bills, and for other devices to defraud the revenue.
69. Penalty for breach of rule relating to sale of stamps and for unauthorised sale.
70. Institution and conduct of prosecutions.
71. Jurisdiction of Magistrates.
72. Place of trial.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

73. Books, etc., to be open to inspection.
74. Powers to make rules relating to sale of stamps.
75. Power to make rules generally to carry out Act.
76. Publication of rules.
- 76A. Delegation of certain powers.
77. Saving as to court-fees.
78. Act to be translated and sold cheaply.
79. [Repealed].

SCHEDULE I.—STAMP-DUTY ON INSTRUMENTS

SCHEDULE II.—[Repealed].

THE INDIAN STAMP ACT, 1899

ACT No. II OF 1899¹

(Received the assent of the Governor General on the 27th January 1899)

An Act to consolidate and amend the law relating to Stamps

WHEREAS it is expedient to consolidate and amend the law relating to Stamps ; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Stamp Act, 1899.

Short title,
extent and
commencement.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1897, Pt. V, p. 175 ; for report of the Select Committee, see *ibid*, 1898, Pt. V, p. 231 ; and for Proceedings in Council, see *ibid*, 1898, Pt. VI, pp. 10 and 278 ; and *ibid* 1899, Pt. VI, p. 5.

The Act has been amended in its application to :—

- (1) Madras by the Madras Stamp (Amendment) Act, 1922 (Mad. 6 of 1922) and the Madras Stamp (Further Amendment) Act, 1923 (Mad. 6 of 1923) ;
- (2) Bombay, by the Bombay Finance Act, 1932 (Bom. 2 of 1932), as amended by Bombay Acts 1 of 1935 and 3 of 1936 ;
- (3) Bengal, by the Bengal Stamp (Amendment) Act, 1922 (Ben. 3 of 1922) and the Indian Stamp (Bengal Amendment) Act, 1935 (Ben. 12 of 1935) ;
- (4) The United Provinces, by the United Provinces Stamp (Amendment) Act, 1932 (U. P. 4 of 1932), as amended by U. P. Act 3 of 1936 ;
- (5) The Punjab and the North-West Frontier Provinces, by the Indian Stamp (Punjab Amendment) Act, 1922 (Punjab 8 of 1922) and the Indian Stamp (Punjab Amendment) Act, 1924 (Punjab 1 of 1924) : see also the Punjab Stamp (Amendment) Act, 1935 (Punjab 1 of 1935) applying only to the Punjab ;
- (6) Coorg, by the Coorg Stamp (Amendment) Act, 1935 (Coorg 2 of 1935).

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

Under s. 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), the Act has been declared to be in force in the Scheduled Districts of Ganjam, Vizagapatam, and East Godavary, see Notification No. 121, dated 25th April 1927, *Fort St. George Gazette*, 1927, Pt. I, p. 684. It has also been extended under ss. 5 and 5A of the same Act, with certain modifications to the districts of the Khasi and Jaintia Hills, the Garo Hills, the Lushai Hills and the Naga Hills and the North Cachar subdivision of the Cachar district, the Mikir Hill Tracts in the Sibsagar and Nowrang districts and the Lakhimpur Frontier Tract, see Notification No. 1541-F.(a), dated the 10th April 1930, *Assam Gazette*, 1930, Pt. II, p. 704.

Note.—This volume includes the changes made by the Government of India (Adaptation of Indian Laws) Order, 1937 as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

(Chapter I—Preliminary—Section 2)

(2) It extends to the whole of British India, inclusive of ¹ * * * British Baluchistan, the Santhal Parganas and the Pargana of Spiti ; and

(3) It shall come into force on the first day of July, 1899.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

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

Note.—“ Banker ”—A “ banker ” is one who receives money in trust to be drawn again as the owner has occasion for it. A “ bank ” is a place where money is deposited for the purpose of being let out to interest returned by exchanger disposed of to profit, or to be drawn out again as the owner shall call for it. Wharton.

“ Banker ” includes also persons or a corporation or company acting as bankers : Negotiable Instruments Act (XXVI of 1881), section 3.

“ The customer lends money to the banker, and the banker promises to repay that money, and whilst indebted to pay the whole or any part of the debt to any person to whom his creditor, the customer, in the ordinary way requires him to pay it.” per Alderson, B. Roberts, *v.* Tucker (16 Q.B., page 575).

“ The relation between banker and customer is that of debtor and creditor with a superadded obligation on the part of the banker to honour the customer’s cheques so long as there are any assets of his in the banker’s hands, per Martin, B., Garnett *v.* M. Kewan (L. R. 8. Ex. 13). See also per Pollock C.B., Pott *v.* (Clegg) 16 M. & W., p. 328, and Foley *v.* Hill (2 H.L. Cas. 20).

“ Any person ”.—This includes any company or association or body of individuals, whether incorporated or not ; General Clauses Act (X of 1897), sec. 3 (39).

[*Donogh’s Indian Stamp Law Eighth Ed., 1929.*]

“ Bill-of-exchange.”

XXVI of 1881.

(2) “ bill-of-exchange ” means a bill-of-exchange as defined by the Negotiable Instruments Act, 1881, and includes also a *hundi*, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money :

Note.—“ As defined by the Negotiable Instruments Act ”.—A “ bill of exchange ” is an instrument in writing containing an unconditional order signed by the maker, directing a certain person to pay a certain sum of money only, to, or to the order of, a certain person or to the bearer of the instrument. A promise or order to pay is not “ conditional ” within the

(Chapter I.—Preliminary.—Section 2)

meaning of this section by reason of the time for payment of the amount of any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event, which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain. The sum payable may be "certain" within the meaning of this section, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that on the default of payment of an instalment the balance unpaid shall become due. The person to whom it is clear that the direction is given or that payment is to be made, may be a "certain person" within the meaning of this section, although he is misnamed or designated by description only: Negotiable Instruments Act (XXXVI of 1881), section 5.

A bill-of-exchange is a written order or request by one person to another for the payment of money at a specified time absolutely and at all events: Bayley, "Bills".

"A bill-of-exchange is only a transfer of a chose-in-action according to the custom of merchants; it is an authority to one person to pay to another the sum which is due to the first"; per Ghose, J., Mead *v.* Young (4 T.R. 32).

The chief features of a bill-of-exchange, which distinguish it from other instruments, are: (1) its negotiability or quality of assignment which is inherent in all bills made payable to C. D. or "bearer" or to order of the payee in the former of which cases it will pass like a bank note by delivery, whilst in the latter it requires the endorsement of the payee to make it negotiable; (2) that a consideration for the bill will be presumed until the contrary appear; (3) that it must be for payment of money; (4) that the payment must be unconditional or absolute; Broom.

[*Donogh's Indian Stamp Law, Eighth Ed., 1929.*]

(3) "bill-of-exchange payable on demand" includes—

"Bill-of-exchange
i.e.
on demand".

- (a) an order for the payment of any sum of money by a bill-of-exchange or promissory note, or for the delivery of any bill-of-exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;
- (b) an order for the payment of any sum of money weekly, monthly or at any other stated periods; and
- (c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn:

Note.—“Payable on demand”.—Where no time is specified for payment in a bill it is payable on demand: Negotiable Instruments Act (XXXVI of 1881), s. 19.

(Chapter I.—Preliminary.—Section 2)

With regard to the definition of "bill-of-exchange payable on demand" contained in section 2, sub-section (3) of the Indian Stamp Act, it may be pointed out that such bills are now exempt from stamp duty by virtue of the amendment introduced by the Finance Act, V of 1927.

Demand bills now exempt from stamp-duty.

"Bill-of-lading".

(4) "bill-of-lading" includes a "through bill-of-lading," but does not include a mate's receipt:

NOTE.—"A bill-of-lading" is a written acknowledgment by the master of a vessel that he has received goods from the shipper to be conveyed on the terms therein expressed to their destination and to be then delivered to the parties therein designated. The ordinary practice is this: when goods are sent on board ship, the master or person acting for him gives a receipt for them; the master afterwards signs three or four parts of a bill-of-lading, one of which is retained by the captain, another is transmitted to the consignee, the other or others being held by the consignor himself for his own security. Broom "Common Law" (9th Ed.), page 505. And see Scruton, "Charter-parties" (6th Ed.) page 7.

Bills-of-exchange, executed out of British India and relating to property to be delivered in British India, are exempt from stamp duty; *vide* Art. 14, exemption (b).

"Includes a through bill-of-lading."—A through "bill-of-lading" is one made for the carriage of goods from one place to another by several shipowners or railway companies: Scruton, "Charter-parties" (6th Ed.), page 64.

"Mate's receipt."—On delivery of goods by a shipper to the shipowner or his agent the shipper will, unless there is a custom of the port to the contrary, obtain a document known as a mate's receipt. As a general rule the person in possession of the mate's receipt is the person entitled to bills-of-lading, which should be given in exchange for that receipt: Scruton, "Charter-parties," p. 132.

There is some doubt whether a "bill-of-lading" properly so-called, is not confined to maritime adventures; and whether an instrument so worded given by a boat-master in a canal navigation, would operate in any way except as a receipt or memorandum.

This matter has been settled in India by a notification exempting so-called bills-of-lading issued by Inland Steamer Companies from duty.

For the duty on a bill-of-lading *see* Art. 14.

[*Donogh's Indian Stamp Law, Eighth Ed., 1929.*]

"Bond".

(5) "bond" includes—

- (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

(Chapter I.—Preliminary.—Section 2)

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

NOTE.—A "bond" is an instrument under seal, whereby one person becomes bound to another for the payment of a sum of money, or for the performance of any other act or thing. The person thus bound is called the 'obligor', and he to whom the bond is given the 'obligee', and this obligation may be either by or to one or several persons; Hurlstone.

A bond is the acknowledgment of a debt in writing under the hand and seal of the debtor, who is then called the 'obligor'. It must be delivered to the creditor, who becomes the 'obligee'; Encyc. of Laws.

The formality of sealing instruments is not observed in India, and it is quite clear that the English definition of a bond can furnish us with no guidance in the decision of this point (1925, 6 Lah., 276).

If a bond is merely for the payment of money or for the performance of some particular act, without any condition in or annexed to it, the bond is said to be single, but there is in general a condition added to the bond in the nature of a defeasance, stipulating that if the obligor duly performs the act specified, the obligation shall be null and void, otherwise that it shall remain in full force. In case this condition is not performed the bond becomes forfeited; Broom 'Common Law' (tenth Ed.) page 668.

A bond is not the less a bond because its operation is deferred until the happening of a certain event or contingency: Lakshmandas v. Rambhau (I. L. R., 20, Bom., 791).

Bonds and Agreements.—Bonds are in the nature of agreements. They are, in fact, agreements of a particular form, and it is presumed that such instruments, if not falling under the above descriptions of bonds or of promissory notes (clause 22) would be chargeable under Art. 5. A bond under clause (c) may be regarded for the purposes of stamp duty as an agreement to give grain with attestation. Without attestation the instrument would probably be considered as an agreement falling under Art. 5. (This view has been adopted in Abhairaj Kuar v. Data Din, 1922, 73 Indian Cases, 465 Oudh).

Bonds and Mortgages.—The distinction between these two classes of instruments appears to be that, while the one merely creates an obligation, the other not only creates the obligation, but secures its performance by a pledge of property.

Bonds and promissory Notes.—In the first place a promissory note in its proper and legal form could not well be confounded with a bond under clause (a) i.e., a bond with a condition, for such a promissory note must be "an unconditional undertaking"; nor could it be mistaken for a bond, under clause (c) to deliver grain or such like, for the subject of a promissory note can be "money only". Secondly, as to single bonds falling under clause (b) such bonds could not be mistaken for promissory notes executed in the ordinary form, i.e., payable to "order" or to "bearer," which constitute their negotiability for instruments so worded are expressly excluded by clause (b). Their negotiability consists in their being assignable, viz., by endorsement and delivery when payable to "order"; and by delivery merely, when payable to "bearer". Thirdly, to distinguish between a "bond" as described in clause (b) and a promissory note which is not negotiable: the language of a bond indicates an obligation while that of a note constitutes a promise or undertaking to pay. The distinction between these instruments when loosely worded is often difficult to trace.

A *satta* attested by a witness, and executed for the delivery of cotton on a certain day, is a "bond" within the meaning of section 3, (4) of the Stamp Act, 1879 [now section 2, clause (5)] and is liable to stamp duty as such. Opinion of the Advocate General, Bengal (Sir G. C. Paul, K.C.I.E.).

Particular attention is called to the fact that as these *sattas* appear to vary in form in different localities, the above opinion of the Advocate General should, in any particular case, be carefully considered with reference to the form of *satta* actually used.

"Chargeable".

(*Chapter I.—Preliminary.—Section 2*)

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, 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, where several persons executed the instrument at different times, first executed :

"Cheque".

(7) "cheque" means a bill-of-exchange drawn on a specified banker and not expressed to be payable otherwise than on demand :

"A cheque is clearly not an assignment of money in the hands of the banker. It is a bill-of-exchange payable at a banker's. The banker is bound by his contract with his customer to honour the cheque when he has sufficient assets in his hands ; if he does not fulfil his contract, he is liable to an action by the drawer, in which heavy damages may be recovered if the drawer's credit has been injured" : per Sir G. Jessel, *M. R. Hopkinson v. Forester* (19 L. R. Eq., 76).

"A banker's cheque is a peculiar sort of instrument in many respects resembling a bill-of-exchange, but in some entirely different. A cheque does not require acceptance ; in ordinary course it is never accepted ; it is not intended for circulation ; it is given for immediate payment ; it is not entitled to days of grace ; and though strictly speaking an order upon a debtor by a creditor to pay to a third person the whole or part of a debt, yet in the ordinary understanding of persons it is not so considered. It is more like an appropriation of what is treated as ready money in hands of the banker and in giving the order to appropriate to a creditor, the person giving the cheque must be considered as the person primarily liable to pay, who orders his debt to be paid at a particular place, and as being much in the position of the maker of a promissory-note or the acceptor of a bill-of-exchange payable at a particular place and not elsewhere, who has no right to insist on immediate presentation at that place :" per Parke B., *Ramcharan v. Luchmeechand* (9 Moore P. C., page 69).

[*Donogh's Indian Stamp Law, Eight Ed. 1929.*]

[The stamp duty on cheques was abolished by the Finance Act of 1927 (V of 1927).]

* * * * *
(9) "Collector"—

(a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a district ; and

(b) includes a Deputy Commissioner and any officer whom [the Collecting Government] may, by notification in the official gazette, appoint in this behalf :

1. Cl. (8) defining "Chief Controlling Revenue-authority" rep by the A. O. : see now definition in s. 3(9a) of the General Clauses Act, 1897 (10 of 1897).

2. Subs. by the A.O. for "the L. G.".

"Collector".

(Chapter I.—Preliminary.—Section 2)

(10) "conveyance" includes a conveyance on sale "Conveyance" and every instrument by which property, whether moveable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule¹:

NOTE.—"Sale" is the exchange of property for a price. It involves the transfer of the ownership of the thing sold from the seller to the buyer: Indian Contract Act (IX of 1872), section 77.

It is a transmutation of property from one man to another in consideration of some price: Blackstone. "It may be defined to be a transfer of the absolute or general property in a thing for a price in money": Benjamin.

"Money" means and includes not only coin, but also bank notes, Government promissory-notes, bank deposits, and otherwise and generally any paper, obligation or security that is immediately and certainly convertible into cash, so that nothing can interfere with or prevent such conversion: per Stuart, C. J., Ref. (I. L. R., 3. All., page 793).

"We think that goodwill falls under the description of 'property'. Were it otherwise, in cases where the goodwill operated as an increase of the value of real property, as in the sale of a well-accustomed shop, the revenue would be easily defrauded, by dividing the price of the real estate and the goodwill into two portions, and paying the duty only on the former part": see Pollock, C. B. *Potter v. Commissioners of Inland Revenue* (10 Ex. p. 159) and *see* in the matter of a Ref. (I. L. R., 23, Cal., 283).

"'Goodwill' I apprehend must mean every advantage, every positive advantage, if I may so express it, as contrasted with the negative advantage of the late partner not carrying on the business himself, that has been acquired by the old firm in carrying on its business, whether connected with the premises in which the business was carried on, or with the name of the late firm, or with any other matter carrying with it the benefit of the business": per Wood V. C. *Churton v. Douglas* (John, page 188). This was approved by Lord Herschell in *Trego v. Hunt* [L. R. (1896) A. C., page 17], where the older authorities are discussed.

"It is the benefit and advantage of the good name, reputation, and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start. If there is one attribute common to all cases of goodwill, it is the attribute of locality. For goodwill has no independent existence. It cannot subsist by itself. It must be attached to a business. Destroy the business, and the goodwill perishes with it. Goodwill is bought and sold every day. It may be acquired in any of the different ways in which property is usually acquired. When a man has got it, he may keep it at his own. He may vindicate his exclusive right to it if necessary by process of law. He may dispose of it if he will, of course, under the conditions attaching to property of that nature": per Lord Macnaghten. *Inland Revenue Commissioners v. Muller and Co. Margarine Limited* [L.R. (1901) A. C. pages 223-4]

"Transfer of property" means an act by which a living person conveys property, in present or in future, to one or more other Transfer of property. living persons, or to himself and one or more other living persons, "and to transfer property" is to perform such act: Transfer of Property Act (IV of 1882), section 5.

A policy of assurance also is property within the meaning of the Stamp Act and assignable; *Caldwell v. Dawson* (5 Ex. 1). A Policy of Assurance transfer by endorsement, is however, exempt from duty under Art. 62, Ex. (c).

(Chapter I.—Preliminary.—Section 2)

"Otherwise specifically provided for by Schedule 1.—These are—'Gift' (Art. 33), which is a transfer of property made voluntarily and without consideration; 'mortgage' (Art. 40), which is the transfer of an interest only in property; 'lease' (Art. 35) which is the transfer of the right to enjoy property; 'Exchange' (Art. 31), which is the transfer of the ownership of one thing for another neither of which is money; 'Settlement' (Art. 58), which is a disposition of property for certain purposes, S. 2 (24); 'Declaration of Trust' (Art. 64), which is the creation of an obligation annexed to the ownership of land arising out of a confidence to be exercised for the benefit of another; 'Composition-deed' (Art. 22), which is a transfer by a debtor of his property for the benefit of his creditors; 'Transfer' (Art. 62) and 'Transfer of lease' (Art. 68), which are special transfers. The above are voluntary transfers, to which may be added a 'Certificate of sale' (Art. 18), which represents a transfer by operation of law."

Transfer by Delivery.—Moveable property can be transferred by delivery. It is not necessary that it should be transferred by a deed. "A transfer of property may be made without writing in every case in which a writing is not expressly required by law!" Transfer of Property Act (IV of 1882), section 9.

"It is to be observed that what the Stamp Act deals with is not the bargain which arises out of the consent of the parties, but the instrument which records that bargain; per Collins L. J., Muller and Company Limited v. Commissioners [L. R. (1900) Q. B. p. 319].

A trade-mark, as well as a goodwill, is a property and may be conveyed *Benjamin Brooke and Co. v. Commissioners of Inland Revenue* [L. R. (1896) 2 Q. B., 356.]

[*Donogh's Indian Stamp Law, Eighth Ed. 1929.*]

"Duly
stamped."

(11) "duly stamped," as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in British India :

Note.—An instrument to be "duly stamped" must be stamped with a stamp not only of the amount required by law, but also in the manner prescribed by the rules under the Act, the law being contained in the rules under the Act as well as in the Act itself.

"Executed"
and "execu-
tion."

"Collecting
Govern-
ment"

(12) "executed" and "execution" used with reference to instruments, mean "signed" and "signature."

1[(12A) "collecting Government" means—

(a) in relation to stamp duty in respect of bills-of-exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts, and in relation to any other stamp duty chargeable under this Act and falling within item 59 in list I in the Seventh Schedule to the Government of India Act, 1935, the Central Government;

(b) save as aforesaid, the Provincial Government.]

26 geo., 5,
c. 2.

(Chapter I.—Preliminary—Section 2)

(13) “impressed stamp” includes—

“Impressed stamp.”

(a) labels affixed and impressed by the proper officer, and

(b) stamps embossed or engraved on stamped paper :

(14) “instrument” includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded :

(15) “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 or any Civil Court and award by an arbitrator directing a partition :

(16) “lease” means a lease of immoveable property, and includes also— “Lease.”

(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 immoveable property ;

(c) any instrument by which tolls of any description are let ;

(d) any writing on an application for a lease intended to signify that the application is granted :

Note.—Exploring and prospecting licenses are not leases for purposes of the definition in s. 2, cl.(16), of the Stamp Act. A license does not become a lease, merely because a rental is reserved. These licenses are chargeable as “agreements” with a stamp duty of eight annas under Art. 5(c) : Government of India Order No. 1677, S.R., dated 10th April 1902.

Clause (a).—A “patta,” strictly speaking, is a lease of land for cultivation, or in other words an agricultural lease : *Collector of Tanjore v. Ramasamier* (3 Mad., p. 346).

Clause (c).—A “toll” is a tribute or custom paid for passage : Wharton, “toll” is a sum of money which is taken in respect of some benefit, the benefit being the temporary use of land, e.g., fairs and market tolls, anchorage tolls and harbour tolls ; Stroud.

(Chapter I.—Preliminary—Section 2)

The word "toll" must be taken in its ordinary sense to mean a tax paid for some liberty or privilege such as for passage over a bridge or ferry or along a highway or for selling in a market or fair and such like, it does not include "octroi" or "chungi": Financial Commissioner's Circular No. 35, dated the 13th August 1883 (Punjab).

A ferry is a place where tolls are collected, therefore a lease of a ferry comes within the definition of "lease" in the Stamp Act, as "an instrument by which tolls of any description are let".

[*Donogh's Indian Stamp Law, Eighth Ed. 1929.*]

'Marketable security.'

[^(16A) "marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom :]

"Mortgage-deed."

(17) "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 or in respect of specified property :

Note.—Mortgage is a form of security created by contract conferring an interest in property, defeasible upon performing the condition of paying a given sum of money, with or without interest, at a given time, or of performing some other condition. It may be either legal or equitable. In the former case the legal ownership of the property is transferred to the mortgagee; in the latter the legal ownership remains vested in the mortgagor, or in some other person than the mortgagee, and the security can only be enforced under the equitable jurisdiction of the Court: Wharton; Fisher, "Law of Mortgage".

"There are three kinds of security; the first a simple 'lien'; the second a 'mortgage' passing the property out and out; the third a security intermediate between a lien and a mortgage, *viz.*, a 'pledge' where, by a contract, a deposit of goods is made a security for a debt, and the right to the property vests in the pledgee so far as is necessary to secure the debt:" per Wills, *J. Halliday v. Holgate* (L. R. 3 Ex., page 302).

The definition in this Act is apparently intended to embrace all three kinds of security, and to cover all kinds of property.

A 'lien' is the right to retain possession of a thing until a claim be satisfied. It answers to the *tacita hypotheca* of the Civil Law. Stroud.

'Mortgage' is the transfer of an interest in specific immoveable property for the purpose of security of the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability. The transferor is called the mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed: *Transfer of Property Act* (IV of 1882), section 58.

This is not co-extensive with the definition given in this Act, as it is confined to one class of property only. This point has been recently considered by the Legislature with a view to assimilating the two, but the definition has been advisedly left unaltered: The Select Committee's Report.

"Pledge".—"The bailment of goods as security for payment of a debt or performance of a promise is called a 'pledge':" *Indian Contract Act* (IX of 1872), section 172.

(Chapter I.—Preliminary—Section 2)

No precise form is required for a mortgage, and it is sufficient if it appears to have been the intention of the parties to create a charge upon lands, and in ascertaining the intention the form of expression, the literal sense is not to be so much regarded as the real meaning which the transaction discloses. If the intention can be collected from the instrument, the form of expression is not material : *Rajkumar Ramgopal v. Ram Dutt Chowdhury* (5 B. L.R., page 272). No formal words are necessary to create a charge if the intention of the parties is sufficiently expressive : *Martin v. Purram* (2 Agra H.C.R., 124).

“Where immoveable property of one person is by act of parties or operation of law made security for the payment of money to another and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property :” [Transfer of Property Act (IV of 1882)].

“Specified property.”—This would mean property described so that it may be readily recognized and identified such as to meet the requirements of the Registration Act, section 21 : *Nazibulla Mulla v. Nusir Mistri* (7 Cal. 196).

[*Donogh's Indian Stamp Law, 1929 Edition.*]

“Paper.”

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

(19) “policy of insurance” includes—

“Policy of insurance.”

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against a loss, damage or liability arising from an unknown or contingent event ;
- (b) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance :

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Note.—A “policy of insurance” is an instrument by which one party, in consideration of a premium, engages to indemnify another against a contingent loss, by making him a payment in compensation, if and when the event shall happen by which the loss is to accrue : *Stephen, Laws of England.*

“Insurance” is a contract by which a person, company or society, in consideration of a gross sum or of a periodical payment, undertake, to pay a larger sum on the happening of a particular event. The consideration is termed the premium or premiums ; the party entering into the undertaking the assurer or insurer ; the party for whose benefit it is entered into the assured or insured ; the happening of the event the risk ; and the instrument containing the contract the policy : *Smith, Mercantile Law.*

[*Donogh's Indian Stamp Law, Ed. 1929.*]

(20) “policy of sea-insurance” or “sea-policy”—

- (a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship

“Policy of sea-insurance” or “sea-policy.”

¹ The word “and” and sub-clause (c) repealed by the Indian Stamp (Amendment) Act, 1906 (V of 1906), s.2.

(Chapter I.—Preliminary—Section 2)

or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel ; and

(b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance ;

Note.—“*Ship or Vessel*”.—“*Ship*” shall include every description of vessel used in navigation not exclusively propelled by oars. “*Vessel*” shall include any ship or boat or any other description of vessel used in navigation: General Clauses Act (X of 1897), section 3(51), (56).

Marine insurance is a contract by which one party, for a stipulated sum agrees to indemnify another against loss of a ship or the goods or the freight or the profits expected from the cargo or any of them during a certain voyage or a certain period : Arnould. And see Marine Insurance Act, 1906 (6 Ed., VII c. 41) Section 1.

[*Donogh's Indian Stamp Law, 1929 Edition.*]

“Power-of-
attorney.”

(21) “power-of-attorney” includes 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 for and in the name of the person executing it :

Note.—The Advocate General, Bengal, has given as his opinion that none of the following are powers-of-attorney—

- (a) the declaration which a candidate for election to a Legislative Council makes appointing some other person to be his election agents
- (b) the authorization in writing signed by a candidate of a representative to be present at the time of counting the votes,
- (c) the appointment in writing by a candidate of an agent to appear in his stead at a polling booth. (Government of India, Reforms Office letter No. 976-F, dated 23rd November 1920.)

(Chapter I.—Preliminary.—Section 2)

(22) " promissory note " means a promissory note as defined by the Negotiable Instruments Act, 1881 : " Promissory note." XXVI 1881.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

Note.—A " promissory note " is an instrument in writing (not being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only, to, or to the order of, a certain person, or to the bearer of the instrument. A promise to pay is not " conditional " by reason of the time of payment of the amount or any instalment there of being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind is certain to happen, although the time of its happening may be uncertain. The sum payable may be certain, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides, that, on default of payment of an instalment, the balance unpaid shall become due. The person to whom it is clear that the direction is given or that payment is to be made may be a " certain person," although he is misnamed or designated by description only : Negotiable Instruments Act (XXVI of 1881), Sections 4, 5.

[*Donogh's Indian Stamps Law, Ed. 1929*]

(23) " receipt " includes any note, memorandum " Receipt," or writing—

- (a) whereby any money, or any bill-of-exchange, cheque or promissory note is acknowledged to have been received, or
- (b) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or
- (c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or
- (d) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person :*.

Note.—This definition must be read along with the exemptions contained in Article 53. A receipt endorsed on a duly stamped instrument, or for payment of money without consideration requires no stamp, nor in any case unless the amount exceeds Rs. 20.

* The word " and " was rep. by the Repealing and Amending Act 928 (18 of 1928), S. 2 and Sch. I.

(Chapter I.—Preliminary.—Section 2)

“ It is not necessary to have a receipt given in any specific terms ; it is sufficient if it purports to be a discharge and is intended to operate as such. Any form of words which, if duly stamped, would operate as a receipt, is to be considered liable to the stamp duty” per Lord Kenyon, C. J. Spawforth v. Alexandar (Esp. 62).

[*Donogh's Indian Stamp Law, 1929 Edition.*]

“ Settlement.”

(24) “ 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 for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose ;

and includes on agreement in writing to make such a disposition ¹[and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition] :—²[and

Note.—“ Settlement ” means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of, or is agreed to be disposed of : Specific Relief Act (I of 1877), section 3.

Gift and Settlement.—A “ gift ” is the transfer of certain existing moveable or immoveable property made voluntarily and without consideration by one person called the donor to another called the donee, and accepted by or on behalf of the donee : Transfer of Property Act (IV of 1882), section 122.

Will and Settlement.—“ Will ” means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death : Indian Succession Act (X of 1865), section 3, Probate and Administration Act (V of 1881), Section 3.

One of the invariable tests in coming to a conclusion as to the testamentary character of paper is whether the paper is revocable. If it is not revocable, the document is not a will : (1902, 33 Mad. 304).

[*Donogh's Indian Stamp Law, 1929 Edition.*]

“ Soldier ”
VIII of 1911.

(25) “ soldier ” includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911.

¹. Inserted by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 2

² Inserted by the Repealing and Amending Act, 1928. (18 of 1928), S. 2 and Sch.I.

(*Chapter II.—Stamp-duties.—Section 3*)

CHAPTER II

STAMP-DUTIES

A.—Of the Liability of Instruments to Duty.

3. Subject to the provisions of this Act and the ^{Instruments} exemptions contained in Schedule I, the following ^{chargeable} _{with duty.} instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

- (a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July, 1899 ;
- (b) every bill-of-exchange¹***[payable otherwise than on demand]²* 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,²*** or promissory note) mentioned in that 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 :

Provided that no duty shall be chargeable in respect of—

- (1) any instrument executed by, or on behalf of, or in favour of, the ³[Crown] in cases where, but for this exemption, the ³[Crown] would be liable to pay the duty chargeable in respect of such instrument ;

* Inserted by the Indian Finance Act, 1927 (5 of 1927), S. 5.

* The word "cheque" repealed by S. 5, *ibid.*

* Substituted by the A. O. for "Government".

(Chapter II.—Stamp-duties—Sections 4-6)

57 & 58
Vict, c. 60.

X of 1841.

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894,¹ or under Act XIX of 1838,² or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts.

Several instruments used in single transaction of sale, or mortgage or settlement.

4. (1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only or shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, 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.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument :

Provided that the duty chargeable on the instruments so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

(Chapter II.—Stamp-duties.—Section 7-8)

Provided that nothing in this Act 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.

7. (1) No contract for sea-insurance (other than sea-insurance as is referred to in section 506 of the Merchant Shipping Act, 1894) shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan¹ Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of ²[one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, subdivision or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other

¹ Coll. stat., Volume II.

² Substituted by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), Section 2, for "eight annas per centum."

(Chapter II.—Stamp-duties.—Sections 8-9)

securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the ¹[Central Government].

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

^{Power to reduce, remit, or compound duties.} 9. ²[The collecting Government] may, by rule or order published in the ³[Official Gazette],

⁴(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of ⁵[the territories under its administration], 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) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

¹ Substituted by the A. O. for " G. G. in C."

² Substituted by the A. O. for " The G. G. in C."

³ Substituted by the A. O. for " Gazette of India."

⁴ For notifications by the Central Government reducing and remitting certain duties, see Gazette of India, 1937, Pt. 1 Pp. 1442, 2032 and 2035.

Substituted the A. O. for " British India."

(Chapter II.—Stamp-duties.—Sections 10-11)

B.—Of stamps and the mode of using them

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

Duties how to be paid.

- (a) according to the provisions herein contained ; or
- (b) when no such provision is applicable thereto—as the ¹[Collecting Government] may by rule direct.

(2) The rules² made under sub-section (1) may, among other matters, regulate,—

- (a) in the case of each kind of instrument—the description of stamps which may be used ;
- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;
- (c) in the case of bills-of-exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

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

Use of adhesive stamps.

- (a) instruments chargeable with the duty of one anna³ [or half an anna], except parts of bills-of-exchange payable otherwise than on demand and drawn in sets ;
- (b) bills-of-exchange ⁴ * 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

¹ Substituted by the A. O. for “Governor-General in Council.”

² See the Indian Stamp Rules, 1925, (General Rules and Orders, Volume III, Pages 338 to 347.)

³ Inserted by the Indian Stamp (Amendment) Act, 1906, (5 of 1906), Section 3.

⁴ The word “cheques” repealed by the Finance Act, 1927 (5 of 1927), Section 5.

(Chapter II.—Stamp-duties.—Sections 12-14)

(e) transfers by endorsement of shares in any incorporated company or other body corporate.

Note.—The use of adhesive stamps in the case of the instruments specified in the section is optional as evidenced by the use of the word "may".

Cancellation
of adhesive
stamps.

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

(b) 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.

(2) 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.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments
stamped
with impress-
ed stamps
how to be
written.

13. 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.

Only one
instrument
to be on
same stamp.

14. 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 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.

(*Chapter II.—Stamp-duties.—Sections 15-18*)

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be un-stamped.

Instrument written contrary to section 13 or 14 deemed unstamped.

16. 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 is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the ¹[Collecting Government] may by rule prescribe.

Note.—For the persons empowered as Collector under this section *see the notifications at page 124.*

C.—Of the time of stamping instruments

17. 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.

Note.—The only exception is that provided by section 47 which enables certain documents chargeable with the duty of one anna, if unstamped, to be stamped at a later date.

18. (1) Every instrument chargeable with duty executed only out of British India, and not being a bill-of-exchange ² * or promissory note, may be stamped within three months after it has been first received in British India.

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

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefore, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same in such manner as the ¹[Collecting Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

¹ Substituted by the A. O. for "Governor-General in Council".

² The word "cheque" repealed by the Indian Finance Act, 1927 (5 of 1927), Section 5.

(Chapter II.—Stamp-duties.—Sections 19-20)

Bills and
notes drawn
out of British
India.

19. The first holder in British India of any bill-of-exchange¹ [payable otherwise than on demand]² * or promissory note 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,—

(a) if at the time any such bill-of-exchange,¹ * 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 12 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 affixed and cancelled :

(b) 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.

Conversion
of amount
expressed in
foreign cur-
rencies.

20. (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of British India, 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.

(2) The³ [Central Government] may, from time to time, by notification in the⁴ [Official Gazette], prescribe⁵ a rate of exchange for the conversion of British or any foreign currency into the currency of British

¹ Inserted by the Indian Finance Act, 1927 (5 of 1927), Section 5.

² The word "Cheque" was repealed by Section 5, *ibid.*

³ Substituted by the A. O. for "Governor-General in Council."

⁴ Substituted by the A. O. for "Gazette of India".

⁵ For notification prescribing such rates, see Finance Department (Central Revenues) Notification C. No. 125-Stamp 15, dated 18th September 1925 (*Gazette of India*, 1925, Part I, Page 886), as amended by Notification No. 8-Stamp, dated 7th November 1931.

(Chapter II.—Stamp-duties.—Sections 21-23A)

India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

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

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, 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.

¹[23A. (1) Where an instrument (not being a promissory note or bill-of-exchange)—

- (a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or
- (b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under ²[Article No. 5 (c)] of Schedule I.

¹ Inserted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), Section 3.

² Substituted by the Indian Stamp (Amendment) Act, 1912 (I of 1912), Section 3, for "Article No. 5 (b)".

(Chapter II.—Stamp-duties.—Sections 24-25)

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

How transfer in consideration of debt, or subject to future payments etc., to be charged.

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 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 :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

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

(Chapter II.—Stamp-duties.—Section 26)

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 calculated from the date on which the first payment becomes due; 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 maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

26. Where the amount or value of the subject-matter of an instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) 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 instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

[Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty—

Stamp where
value of sub-
ject-matter
is indeter-
minate.

¹ Substituted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), S. 4, for the original proviso.

(Chapter II.—Stamp-duties.—Section 27-28)

- (a) when the lease has been granted by or on behalf of [the Crown]¹ at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to ²[the Crown] under the lease, or,
- (b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:]

Provided also that, where proceedings have been taken in respect of an instrument under sections 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Note.—A Collector's estimate under proviso (a) is subject to revision by the Chief Controlling Revenue-authority under section 56.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts 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.

Direction as to duty in case of certain conveyances.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided 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.

(2) 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

¹ Substituted by the A. O. for "the Secretary of State in Council."

² Substituted by the A. O. for "The said Secretary of State in Council."

(Chapter II.—Stamp-duties.—Section 28)

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.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) 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.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration 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.

(Chapter II.—Stamp-duties.—Section 29)

E.—Duty by whom payable

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),

¹ [No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge).]

No. 13 (Bill-of-exchange),

No. 15 (Bond),

No. 16 (Bottomry Bond),

No. 26 (Customs Bond),

No. 27 (Debenture),

No. 32 (Further Charge),

No. 34 (Indemnity-bond),

No. 40 (Mortgage-deed),

No. 49 (Promissory-note),

No. 55 (Release),

No. 56 (Respondentia Bond),

No. 57 (Security-bond or Mortgage-deed),

No. 58 (Settlement),

No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),

No. 62 (b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument :

¹ Substituted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), S. 5, for "No. 6 (Agreement to mortgage)."

(*Chapter II.—Stamp-duties.—Sections 29-30*)

- ¹ [(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance ;
- (bb) in the case of a policy of fire-insurance—by the person issuing the policy ;]
- (c) in the case of a conveyance (including a re-conveyance of mortgaged property) 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 exchange—by the parties in equal shares :
- (f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates : and,
- (g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Note.—Parties are quite free to make their own arrangements as to who is to bear the cost of the stamp. It is only in the absence of an agreement that section 29 applies. Any one from whom the duty or penalty has been wrongly levied may recover it under section 44.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill-of-exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part 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.

Obligation to give receipt in certain cases.

¹ Substituted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906) S. 4 for the original clause (b).

(*Chapter III.—Adjudication as to Stamps.—Section 31*)

¹[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

CHAPTER III

ADJUDICATION AS TO STAMPS

Adjudication as to Proper stamps. 31. (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that 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.

(2) For this purpose the Collector may 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 chargability 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—

- (a) 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

¹ Inserted by Section 5, *ibid.*

(Chapter III.—*Adjudication as to Stamps.*—Section 32)

(b) 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 which 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.

Note.—If a Collector acting under this section is doubtful as to the amount of duty which should be levied he may refer the matter to the Chief Controlling Revenue-authority under section 56(2).

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

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

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,¹

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

(2) 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.

(3) 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:

¹ For refund of this duty in the case of certain instruments, see the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), Section 3 (4).

(Chapter IV.—Instruments not duly stamped.—Section 33)

Provided that nothing in this section shall authorise the Collector to endorse—

- (a) 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 ;
- (b) 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
- (c) any instrument chargeable with the duty of one anna¹ [or half an anna] or any bill-of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

CHAPTER IV

INSTRUMENTS NOT DULY STAMPED

Examination
and im-
pounding of
instruments.

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

(2) 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.

¹ Inserted by the Indian Stamp (Amendment) Act, (5 of 1906), Section 3.

(Chapter IV.—Instruments not duly stamped.—Section 33)

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;

(b) 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.

(3) For the purposes of this section, in cases of doubt,—

(a) ¹[the collecting Government] may determine² what offices shall be deemed to be public offices ; and

(b) ³ [the collecting Government] may determine who shall be deemed to be persons in charge of public offices.

Note.—Section 33 of the Stamp Act renders it imperative on a person in charge of a public office to impound any instrument not duly stamped which is produced or comes before him in the course of his duties.

If the officer is acting as a Court and the document is produced before him for admission in evidence, he should levy the duty and penalty payable under section 35 and send an authenticated copy of the instrument and the certificate prescribed by section 38(1), to the Collector. In other cases, such as when an instrument insufficiently stamped is presented for registration the officer must at once send the instrument in original to the Collector for his orders [section 38, sub-section (2)]. The only case in which an insufficiently stamped document need not be impounded is when it is produced in evidence in a criminal proceeding other than proceedings under Chapter XII or Chapter XXXVI of the Court of Criminal Procedure.

In carrying out the provisions of Section 33 of the Stamp Act, all officers should however bear in mind the orders contained in the notifications of the Government of India granting remissions or reductions of stamp duty.

¹ Substituted by the A. O., for “the Governor-General in Council.”

² For the purposes of this Section, the office of a returning officer appointed for the purposes of an election to a legislative body constituted under the Government of India Act is not a public office, *see Gazette of India, 1920, Part I, page 2136, and Volume III of the General Rules and Orders, Page 349.*

³ Substitute by the A. O. for “the Local Government”,

V of 1898.

(Chapter IV.—Instruments not duly stamped.—Sections 34-35)

Special pro-
vision as to
unstamped
receipts

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments
not duly
stamped in-
admissible,
in evidence,
etc.

35. 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 :

Provided that—

¹ (a) any such instrument not being an instrument chargeable with a duty of one anna ²[or half an 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 or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it ;

¹ For modifications of this provision in respect of instrument to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924) applies, See Section 3 of that Act.

Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), Section 3.

(*Chapter IV.—Instruments not duly stamped.—Sections 36-37*)

- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;
- (d) 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 XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;
- (e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of ¹[the Crown], or where it bears the certificate of the Collector as provided by Section 32 or any other provision of this Act.

V of 1898.

Note.—If a document inadmissible in evidence under other Acts, e.g., the Registration Act or the Evidence Act the mere payment of duty and penalty will not render it admissible.

Proviso (a) "subject to all just exceptions." The particular attention of Collectors is drawn to sections 35, 40 and 41 of the Stamp Act, under which bills-of-exchange, promissory notes, and all instruments chargeable with the duty of one anna or half an anna are excluded from the provisions of those sections. In the case of these instrument Collector cannot certify the impounded document after levying a penalty or after prosecuting the offender.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

37. ²[The collecting Government] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is

Admission of instrument where not to be questioned.

Admission of improperly stamped instruments.

1. Substituted by the A. O. "the Government."

2. Substituted by the A. O. for the "Governor-General in Council."

3. See rule 18 of the Indian Stamp Rules.

(*Chapter IV.—Instruments not duly stamped—Sections 38-39*)

chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments
impounded
how dealt
with.

38. (1) When the person impounding an instrument under section 33 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 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of 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.

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

Note.—Impounded documents forwarded to the Collector under section 38(2) of the Indian Stamp Act 1899 (Act 11 of 1899), if they are documents excluded from the provision of section 40 of that Act, should be destroyed after twelve years from the date of receipt by the Collector provided that no criminal proceeding under Chapter VII of the Stamp Act is pending in connection therewith.

Collector's
power to
refund pen-
alty paid un-
der section
38 sub-sec-
tion (1).

39. (1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit,^{1*} * * *

refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

The words “upon application made to him in this behalf, or if no application is made, with the consent of the Chief Controlling Revenue-authority” repealed by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Pt. I.

(Chapter IV—Instruments not duly stamped—Section 40)

¹ 40. (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of one anna ²[or half an anna] only or a bill-of-exchange or promissory note, he shall adopt the following procedure :—

- (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 :
- (b) if he 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 he thinks fit ³[an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

1. For modifications of these provisions in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), applies, see Section 3 of that Act.

2. Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), Section 3.

3. Inserted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), Section 6.

(Chapter IV—Instruments not duly stamped—Section 41)

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by the section, return it to the impounding officer.

Note 1.—If a Collector feels any doubt as to the correct amount of duty chargeable he may refer the matter to the Chief Controlling Revenue authority under section 56.

Note 2.—There is no special direction as to the party liable and the Advocate General, Bengal, held in 1888 that the deficient duty and penalty could be levied from either party, notwithstanding the provisions of section 29.

As a rule however the persons who desire the admission of the document in evidence should be charged the duty and penalty; this can be recovered afterwards from the proper person under section 44.

Note 3.—Whenever a Collector adjudicates a penalty under section 40(b) of the Indian Stamp Act, II of 1899, he should be careful to serve a notice on the party from whom the stamp duty and penalty are due, fixing a reasonable time within which they must be paid in all cases in which the order is not passed in the presence of such party or in that of his properly constituted attorney.

Levy of process fees for notices served for the realisation of the stamp duty and penalty is not warranted by law.

Note 4.—In adjudging the amount of penalty under section 40 the plea of ignorance or inadvertence should not be so readily accepted, as section 31 provides a cheap method of ascertaining the proper stamp duty payable.

Instruments unduly stamped by accident.

¹ 41. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna ²[or half an anna] only or a bill-of-exchange or promissory note, is produced by any person of 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 the 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

¹ For modifications of these provisions in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), applies, see Section 3 of that Act.

². Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), Section 3.

(Chapter IV—Instruments not duly stamped—Sections 42-43)

such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, 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.

(2) 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—

- (a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35 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;
- XIV of 1882. (b) nothing in this section shall effect the ¹Code of Civil Procedure, section 144, clause 3.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any 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:

¹ See now the Code of Civil Procedure, 1908 (5 of 1908), Schedule I, Order XIII, rule 9.

(*Chapter IV—Instruments not duly stamped—Sections 44-45*)

Provided that 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.

Note.—This section does not apply to instruments chargeable with a duty of half an anna or one anna only or to bills-of-exchange or promissory notes as revenue penalty cannot be levied upon such instruments. For such instruments a prosecution can be instituted under section 62.

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

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 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.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

45. (1) Where any penalty is paid under section 35 or section 40, the ¹ Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

¹ For definition, see the General Clauses Act, 1897 (10 of 1897), section 3 (9a)

(*Chapter IV—Instruments not duly stamped—Sections 46-47*)

(2) Where, in the opinion of the ¹ Chief Controlling Revenue-authority, stamp duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Note.—The Chief Controlling Revenue-authority when ordering a refund of excess stamp duty under this section should at the same time order the payment to the applicant of a sum equal to the court-fee paid on his application for the refund.

46. (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the 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.

Note.—The copy so made will not be liable to stamp duty, *vide* exemption Power of (a) to article 24 and must be retained in the custody of the impounding officer.

47. When any bill-of-exchange ² [or promissory note] chargeable with the duty of one anna is presented for payment unstamped, the person to 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 bill³ [or note] 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 bill³ [or note] shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill³ [or note].

¹ For definition, *see* the General Clauses Act, 1897 (10 of 1897), section 3 (9a).

² Substituted by the Indian Finance Act, 1927 (5 of 1927), section 5, for "Promissory note or cheque".

³ Substituted by section 5, *ibid*, for "note or cheque".

(*Chapter V—Allowances for Stamps in certain cases—Sections 48-49*)

Recovery of
duties and
penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

Note.—The obligation to pay duty and penalty is a personal one and does not extend to a person's heir or representatives.

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

Allowance
for spoiled
stamps.

49. Subject to such rules as may be made by¹ [the collecting Government] as to the evidence to be required or the enquiry to be made, the² Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

- (a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person:
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto:
- (c) in the case of bills-of-exchange³ [payable otherwise than on demand]^{4*} or promissory notes—
 - (1) the stamp on⁵ [any such bill-of-exchange]^{5**} signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever

¹ Substituted by the A.O. for the words "the Local Government" The words "Local Government" had been substituted by the Decentralization Act, 1914 (4 of 1914), section, 2 and Schedule, Part 1 for "Governor General in Council".

² All Subdivisional Officers have been empowered as Collectors for the purpose of making allowances for spoiled or misused stamps.

³ Inserted by the Indian Finance Act, 1927 (5 of 1927), section 5.

⁴ The word "cheques" repealed by section 5, *ibid*.

⁵ Substituted by section 5, *ibid*, for "any bill of exchange".

(*Chapter V—Allowances for Stamps in certain cases—Section 49*)

or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill-of-exchange^{1***} to be afterwards written thereon :

- (2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :
- (3) the stamp used or intended to be used for ¹[any such bill-of-exchange]^{2*} 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^{3***} 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^{2*} or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill^{2*} or note :
- (d) the stamp used for an instrument executed by any party thereto which—
 - (1) has been afterwards found to be absolutely void in law from the beginning :
 - (2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

¹The words “or cheque” repealed by section 5, *ibid.*

²Substituted by the Indian Finance Act, 1927 (5 of 1927) section 5 for “any bill-of-exchange.”

³The word “cheque” repealed by section 5, *ibid.*

(*Chapter V—Allowances for Stamps in certain cases—Section 49*)

- (3) 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, cannot be completed so as to effect the intended transaction in the form proposed :
- (4) 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) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :
- (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :
- (7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :
- (8) 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, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

(*Chapter V—Allowances for Stamps in certain cases—Section 50*)

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Note.—The section makes provision only for impressed stamps, *i.e.*, impressed paper and labels and not for adhesive stamps. *See also* rules 19 and 20 of the Indian Stamp Rules and section 2(13).

50. The application for relief under section 49 for relief shall be made within the following periods, that is to under section 49 when to be made,

- (1) in the cases mentioned in clause (d)(5), within two months of the date of the instrument :
- (2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :
- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, 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 :

Provided that,—

- (a) when the spoiled instrument has been for sufficient reasons sent out of British India, the application may be made within six months after it has been received back in British India :
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Note.—Commissioner of Divisions has been authorized to extend the periods mentioned in this section. *See* rules 8 and 9 of Part I, section 6.

*(Chapter V—Allowances for Stamps in certain cases—
Sections 51-53)*

Allowance in
case of print-
ed forms no
longer requir-
ed by Corpo-
rations.

51. The ¹ Chief Controlling Revenue-authority ²[or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf] may, without limit of time, make allowance for stamped papers used for printed forms of instruments³ [by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said¹ [banker,] company or body corporate: provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance
for misused
stamps.

52. (a) When any person has inadvertently used, for 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

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ; 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 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.

Note.—Sections 52 and 54 (unlike sections 49 and 50 which refer only to impressed stamps) apply to all kinds of Stamps under the Stamp Act but great caution should be used in refunding the value of adhesive labels.

Allowance
for spoiled
or misused
stamps how
to be made.

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,

¹ See foot-note 1 to section 45, *supra*.

² Inserted by the Decentralization Act, 1914 (4 of 1914), section 2 and Schedule, Part I.

³ Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906) section 6

(*Chapter V—Allowances for Stamps in certain cases—
Section 54*)

- (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.

Note.—Under clause (b) court-fee stamp cannot be granted in exchange for non-judicial stamps.

54. When any person is possessed of a stamp or stamps which have 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 or stamps 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—

- (a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them ; and
- (b) that he has paid the full price thereof ; and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Note 1.—Where more stamps than one are presented for refund of value under section 53 or 54 of the Stamp Act the deduction of one anna in the rupee should be on the aggregate value of the stamps and not on each stamp separately.

Note 2.—Allowances under this section, for stamps not required for immediate use, can only be made when the stamps in question have not been rendered unfit for use. They should therefore ordinarily contain no writing of any kind save the usual endorsement of the stamp vendor. The application must moreover, be made within 6 months from the date of purchase.

Note 3.—In certain parts of India it is a not uncommon practice purposefully to spoil good stamps purchased more than six months previously by spilling oil or the contents of an ink-pot over them in order to obtain a refund under section 50 which allows of refund being made within six months of the date of spoiling. Collectors should pay attention to this point.

(*Chapter V—Allowances for Stamps in certain cases—
Chapter VI—Reference and Revision—Sections 55-56*)

Allowance on
renewal of
certain
debentures.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, re-pay to the person issuing such debenture the value of the stamp on the original or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the ¹[Provincial Government] may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder ; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI

REFERENCE AND REVISION

Control of,
and state-
ment of case
to, Chief
Controlling
Revenue-
authority.

56. (1) The powers exercisable by a Collector under Chapter IV and Chapter V ² [and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the ³Chief Controlling Revenue-authority.

(2) If any Collector, acting under section 31, section 40 or section 41, 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 ³Chief Controlling Revenue-authority.

¹ Substituted by the A. O. for "Governor-General in Council."

² Inserted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), section 7.

³ See foot-note 1 to section 45, *supra*.

(Chapter V—Reference and Revisions—Section 57)

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Note.—References made by Collectors under this section to the Chief Controlling Revenue authority should be submitted through the Divisional Commissioner with his opinion.

57.(1) The ¹ Chief Controlling Revenue-authority may state any case refer to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

²[(a) If the case arises in the province of Madras or in Coorg, to the High Court at Madras ;

(b) if it arises in the Province of Bombay, to the High Court at Bombay ;

(c) if it arises in Sind, to the Judicial Commissioner's Court ;

(d) if it arises in Agra or in Ajmer-Merwara, to the High Court at Allahabad ;

(e) if it arises in Oudh, to the Chief Court ;

(f) if it arises in Bihar and Orissa, to the High Court at Patna ;

(g) if it arises in the Punjab, the North-West Frontier Province, British Baluchistan, or Delhi, to the High Court at Lahore ;

(h) if it arises in the Central Provinces and Berar, to the High Court at Nagpur ; and

(i) if it arises in any other part of British India, to the High Court at Calcutta.]

(2) Every such case shall be decided by not less than three Judges of the High Court, ³ [Chief Court or Judicial Commissioner's Court] to which it is referred, and in case of difference the opinion of the majority shall prevail.

Statement of case by Chief Controlling Revenue-authority to High Court, Chief Court or Judicial Commissioner's Court.

¹ See foot-note 1 to s. 45, *supra*.

² Substituted by the A. O. for the original clauses (a) to (e).

³ Substituted by the A.O. for "or Chief Court."

(Chapter VI—Reference and Revision—Sections 58-60)

Power of
High Court,
Chief Court
or Judicial
Commissioner's
Court to call
for further
particulars
as to case
stated.

Procedure in
disposing of
case stated.

Statement of
case by other
Courts to
High Court,
Chief Court
or Judicial
Commissioner's
Court.

58. If the High Court, ¹[Chief Court or Judicial Commissioner's Court] is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions 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.

59. (1) The High Court, ¹[Chief Court or Judicial Commissioner's Court], upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court 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.

60. (1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, 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, ¹[Chief Court or Judicial Commissioner's Court], to which, if he were the ²Chief Controlling Revenue-authority, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the ²Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

¹ Substituted by the A. O. for " or Chief Court ".

² See footnote 1 to Section 45, *supra*.

(Chapter VI—Reference and Revision—Section 61)

(3) References made under sub-section (1), 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.

61. (1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, 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 section 35, 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.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it 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.

(3) When any declaration has been recorded under sub-section (2), 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.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43 prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Revision of
certain decisions
of Courts re-
garding the
sufficiency of
stamps, V of
1898.

(*Chapter VII—Criminal Offences and Procedure—Section 62*)

Provided that—

- (a) 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 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;
- (b) 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 42.

CHAPTER VII

CRIMINAL OFFENCES AND PROCEDURE

Penalty for
executing,
etc., instru-
ment not
duly stamp-
ed.

¹62. (1) Any person—

- (a) drawing, making, issuing, endorsing or transferring, or signing, otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill-of-exchange ²[payable otherwise than on demand] ³* or promissory note without the same being duly stamped ; or
- (b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped ; or
- (c) voting or attempting to vote under any proxy not duly stamped ;

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

* For modification of provisions in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924) applies, See Section 3 of that Act.

¹ Inserted by the Indian Finance Act, 1927 (5 of 1927), Section 5.

² The word "cheque" repealed by Section 5. *ibid.*

(Chapter VII—Criminal Offences and Procedure—Sections 63-64)

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

NOTE 1.—In dealing with cases under Chapter VII, care is necessary to discriminate between cases in which an intent to defraud is required to be shown and those in which it is not. Thus, in prosecutions under section 64 or 68 or for devices to evade duty on receipts under section 65 the fraudulent intention must be established; in other cases such intention is not a necessary element of the offence. At the same time a Magistrate is bound, for the purpose of fixing the amount of fine, to consider the question whether the person prosecuted intended to defraud the revenue. The amount of fine to be imposed is left altogether to the discretion of the Magistrate, a maximum limit only being fixed by the law but he cannot exercise such discretion unless he determines whether the person prosecuted has omitted to stamp duty from a *bona fide* mistake, or from carelessness, or with intent to evade payment of duty.

NOTE 2.—It is not competent for a Collector to make a prosecution under section 62 of the Stamp Act depend upon whether his order under section 40(b) has been obeyed or not.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

64. Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts, and circumstances required by section 27 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; or,

(Chapter VII—Criminal Offences and Procedure—Sections 65-66)

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act ;

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

Penalty for
refusal to
give receipt
and for de-
vices to evade
duty on
receipts.

65. Any person who—

(a) being required under section 30 to give a receipt, refuses or neglects to give the same ; or,
(b) 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 punishable with fine which may extend to one hundred rupees.

Penalty for
not making
out policy or
making one
not duly
stamped.

66. Any person who—

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

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

(*Chapter VII—Criminal Offences and Procedure—Sections 67-69*)

67. Any person drawing or executing a bill-of-ex-change¹ [payable otherwise than on demand] 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 punishable with fine which may extend to one thousand rupees.

68. Any person who—

(a) with intent to defraud the Government of duty, draws, makes or issues any bill-of-ex-change or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of such bill or note, or in any manner negotiates the same ; or

(c) with the like intent practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force ;

shall be punishable with fine which may extend to one thousand rupees.

69. (a) Any person appointed to sell stamps who disobeys any rule made under section 74 ; and

(b) any person not so appointed who sells or offers for sale any stamp [other than a one-anna² (or half an anna) adhesive stamp] ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

1. Inserted by the Indian Finance Act, 1927 (5 of 1927), Section 5.

2. Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.

(Chapter VIII—Supplemental Provisions—Sections 70-73)

Institution
and conduct
of prosecu-
tions.

70. (1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as¹ [the collecting Government] generally, or the Collector specially, authorises in that behalf.

(2) The² Chief Controlling Revenue-authority, or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

NOTE 1.—District Officers have been authorized under section 70(2) to withdraw any prosecution instituted by them and to compound the offence.

NOTE 2.—It is essential that the record of a conviction should evidence the Collector's sanction. The sanction should accordingly be given in writing or at least there should be some note of the fact that sanction was given.

Jurisdiction
of Magis-
trates.

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

Place of trial.

72. 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 Code of Criminal Procedure for the time being in force.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

Books, etc.,
to be open
to inspection.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

1. Substituted by the A.O. for "the Local Government."

2. See foot-note 1, section 45, *supra*.

(Chapter VIII—Supplemental Provisions—Sections 74-76)

74. The¹ [collecting Government]² *** may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of one-anna⁴ [or half an anna] adhesive stamps.

75. The⁵ [collecting Government] may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

76. ⁶ [(1) All rules made under this Act shall be published in the official gazette.]

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

⁸ [76A.⁹ [The Central Government, subject to the provisions of section 124(1) of the Government of India Act, 1935, and the Provincial Government may by notification in the official gazette] delegate—

- (a) all or any of the powers conferred on it by sections 2(9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority ; and

¹ Substituted by the A.O. for "Local Government."

² The words "subject to the control of the Governor-General in Council" repealed by the A.O.

³ For such rules, *see* different Local Rules and Orders.

⁴ Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), section 3.

⁵ Substituted by the A.O. for "Governor-General in Council."

⁶ *See* the Indian Stamp Rules, 1925: (General Rules and Orders, Volume III, pages 338 to 347.)

⁷ Substituted by the A.O. for the original sub-section.

⁸ Inserted by the Decentralization Act, 1914 (4 of 1914), section 2 and Schedule, Part I.

⁹ Substituted by the A.O. for "The Local Government may, by notification in the local official Gazette."

(Chapter VIII—Supplemental Provisions—Sections 77-79)

(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1) (2), 56(1) and 70(2) to such subordinate Revenue-authority as may be specified in the notification.]

Saving as to court-fees. 77. Nothing in this Act contained shall be deemed to effect the duties chargeable under any enactment for the time being in force relating to court-fees.

Act to be translated and sold cheaply. 78. Every ¹[Provincial Government] shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

79. [Repeal] Repealed by the Repealing and Amending Act, 1914 (X of 1914). section 3 and Schedule II.

¹ Substituted by the A.O. for "Local Government."

(Schedule I.—Stamp duty on Instruments)

SCHEDULE I.

STAMP DUTY ON INSTRUMENTS

(See Section 3)

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 creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna.
2. ADMINISTRATION BOND, including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,— (a) where the amount does not exceed Rs.1,000 ; (b) in any other case	X of 1865. V of 1873. V of 1881. VII of 1889.
3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	The same duty as a Bond (No.15) for such amount. Five rupees.
ADVOCATE, See ENTRY AS AN ADVOCATE (No.30).	Ten rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing,	One rupee.
<i>Exemptions</i> Affidavit or declaration in writing when made— 1[(a) as a condition of enrolment under the Indian Army Act, 1911, 2[or the Indian Air Force Act, 1932]	VIII of 1911. XIV of 1932.

1. Substituted by the Repealing and Amending Act, 1928 (18 of 1928), Section 2 and Schedule 1, for the original clause.

2. Inserted by the Indian Air Force Act, 1932, (14 of 1932) Section 130 and Schedule.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
4. AFFIDAVIT— <i>contd.</i> <i>Exemptions—contd.</i>	
(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.	
1[5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a bill of exchange ;	Two annas.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate ; (c) if not otherwise provided for . . . <i>Exemptions</i>	Subject to a maximum of ten rupees, one anna for every Rs.1,00,000 or part thereof of the value of the security or share.
Eight annas. Agreement or memorandum of agreement— (a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No.43 ; (b) made in the form of tenders to the ² [Central Government for or relating to any loan ; (c) made under the European Vagrancy Act, 1874, section 17] IX of 1874.	
AGREEMENT TO LEASE. <i>See Lease (No.35).</i>	
3[6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of moveable property,	

1. Substituted by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), section 3, or original Article (5).

Substituted by the A.O. for "G of I".

3 Substituted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), Section 8(1) for the original Article.

(Schedule I.—Stamp-duty on Instrument)

SCHEDULE I—*concl'd.*

Description of Instrument	Proper Stamp-duty
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE— <i>cantd.</i>	
<p>Where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—</p>	
<p>(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;</p> <p>(b) if such loan or debt is repayable not more than three months from the date of such instrument.</p>	<p>The same duty as a Bill of Exchange [No.13(b)] for the amount secured.</p>
<i>Exemption</i>	Half the duty payable on a Bill of Exchange [No.13(b)] for the amount secured.
Instrument of pawn or pledge of goods if unattested.]	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.	Fifteen rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
<p>(a) where the amount does not exceed Rs.1,000.</p> <p>(b) in any other case</p>	<p>The same duty as a Bond (No.15) for such amount.</p> <p>Five rupees.</p>
<i>Exemptions</i>	
<p>(a) 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.</p> <p>(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.</p>	
9. APPRENTICESHIP-DEED, 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 employment, not being articles of clerkship (No.11).	Five rupees.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
9. APPRENTICESHIP-DEED— <i>contd.</i>	
<p style="text-align: center;"><i>Exemption</i></p> <p>Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.</p>	
10. ARTICLES OF ASSOCIATION OF A COMPANY.	Twenty-five rupees.
<p style="text-align: center;"><i>Exemption</i></p> <p>Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.</p>	
<p>V of 1882</p> <p><i>See also</i> Memorandum of Association of a company (No.39).</p>	
11. 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.— <i>See</i> Conveyance (No.23) transfer (No.62), and transfer of lease (No.63), as the case may be.	
ATTORNEY. <i>See</i> entry as an Attorney (No. 30), and Power-of-Attorney (No.48).	
AUTHORITY TO ADOPT. <i>See</i> Adoption-deed (No.3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
<p>(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs.1,000 ;</p>	The same duty as a Bond (No.15) for such amount.
(b) in any other case	Five rupees.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd*

Description of Instrument	Proper Stamp-duty
12. AWARD— <i>contd.</i>	
<i>Exemption</i>	
Award under the 1Bombay district Municipal Act, 1873, section 81, or the 2Bombay Hereditary Offices Act, 1874, section 18.	Bom. Act VI 1873. Bom. Act, III of 1874.
13. BILL OF EXCHANGE, [as defined by section 2(2)3 *], not being a Bond, bank-note or currency-note—	
4* * * * *	

1. See now the Bombay District Municipal Act, 1901 (Bom. 3 of 1901). Bom. Code.

2. Bom. Code.

3. The word, figure and brackets "and (3)" repealed by the Indian Finance Act, 1927 (5 of 1927), Section 5.

4. The entry (a) repealed by Section 5 *ibid.*

5. Substituted by the Indian Stamp (Amendment) Act, 1912 (1 of 1912), Section 2 for the original clause (b).

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I.—*contd.*

		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
		Rs. a. p.	Rs. a. p.	Rs. a. p.
13. BILL OF EXCHANGE— <i>contd.</i>				
if it exceeds Rs. 7,500 and does not exceed Rs. 10,000		9 0 0	4 8 0	3 0 0
Ditto 10,000 ditto 15,000		13 8 0	6 12 0	4 8 0
Ditto 15,000 ditto 20,000		18 0 0	9 0 0	6 0 0
Ditto 20,000 ditto 25,000		22 8 0	11 4 0	7 8 0
Ditto 25,000 ditto 30,000		27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000		9 0 0	4 8 0	3 0 0]

(c) where payable at more than one year after date or sight.	The same duty as a Bond (No.15) for the same amount.
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114. BILL OF LADING, (including a through bill of lading).	Four annas.
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N.B.—If a bill of lading is drawn in parts, the proper stamp therefore must be borne by each one of the set.

Exemptions.

(a) 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, 1889, and are to be delivered at another place within the limits of the same port.

(b) Bill of lading when executed out of British India and relating to property to be delivered in British India.

15. BOND [as defined by section 2 (5)] not being a debenture (No.27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—	
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where the amount or value secured does not exceed Rs. 10;

Two annas.

1. Bills of lading of Inland steamer companies have been exempted from the duty payable under this article, *see* Gazette of India, 1904, part 1, page 38.

2. See now the Indian Ports Act, 1908 (15 of 1908).

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument				Proper Stamp-duty
15. BOND— <i>concl.</i> where it exceeds Rs. 10 and does not exceed Rs. 50				Four annas.
Ditto	50	ditto	100	Eight annas.
Ditto	100	ditto	200	One rupee.
Ditto	200	ditto	300	One rupee eight annas.
Ditto	300	ditto	400	Two rupees.
Ditto	400	ditto	500	Two rupees eight annas.
Ditto	500	ditto	600	Three rupees.
Ditto	600	ditto	700	Three rupees eight annas.
Ditto	700	ditto	800	Four rupees.
Ditto	800	ditto	900	Four rupees eight annas.
Ditto	900	ditto	1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.				Two rupees eight annas.
See Administration-Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).				
Exemptions.				
Bond, when executed by—				
(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;				Ben. Act. III of 1876.
(b) 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 specific sum per annum.				
16. 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.				The same duty as a bond (No. 15) for the same amount.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
17. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Five rupees.
<p><i>See also</i> Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of lease (No. 61), Revocation of trust (No. 64-B).</p>	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—	
(a) where the purchase-money does not exceed Rs. 10 ;	Two annas.
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25 ;	Four annas.
(c) in any other case	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	1 Two annas.
<p><i>See also</i> LETTER OF ALLOTMENT OF SHARES (NO. 36).</p>	
20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.
* * * *	

¹ Substituted by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), Section 2 for "One anna."

² Article 21 repealed by the Indian Finance Act, 1927 (5 of 1927), Section 5.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument				Proper Stamp-duty
22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property 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.				Ten rupees.
23. CONVEYANCE [as defined by section 2 (10)] not being a Transfer charged or exempted under No. 62,—				Eight annas.
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs.50 ;				
where it exceeds Rs.50 but does not exceed	Rs.			
	100			One rupee.
Ditto 100	ditto	200		Two rupees.
Ditto 200	ditto	300		Three rupees.
Ditto 300	ditto	400		Four rupees.
Ditto 400	ditto	500		Five rupees.
Ditto 500	ditto	600		Six rupees.
Ditto 600	ditto	700		Seven rupees.
Ditto 700	ditto	800		Eight rupees.
Ditto 800	ditto	900		Nine rupees.
Ditto 900	ditto	1,000		Ten rupees.
and for every Rs.500 or part thereof in excess of Rs. 1,000.				Five rupees.
<i>Exemption.</i>				
Assignment of copyright by entry made under the Indian Copyright Act, 1847, Section 5.				XX of 1847.
CO-PARTNERSHIP-DEED <i>See</i> Partnership (No. 46).				

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
24. 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—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee ;	Eight annas.
(ii) in any other case	One rupee.
<i>Exemptions.</i>	
(a) 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.	
1[(b) Copy of or extract from, any register relating to births, baptisms, namings, dedications, marriages, ² [divorces], deaths or burials].	
25. 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 ;	The same duty as is payable on the original.
(b) in any other case	One rupee.
<i>Exemption.</i>	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS—BOND—	
(a) where the amount does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case	Five rupees.

¹ Substituted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), S. 7(1) for the original clauses (b) and (c).

² Inserted by Repealing and Amending Act, 1914 (10 of 1914), S. 2 and Sch. I.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
I[27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable—	
(a) by endorsement or by a separate instrument of transfer ;	The same duty as a Bond (No. 15) for the same amount.
(b) by delivery	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
<p><i>Explanation.</i>—The term “debenture” includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.</p>	
<p><i>Exemption.</i></p> <p>A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed, duly stamped in respect of the full amount of debentures to be issued thereunder whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed.</p>	
<p><i>See also</i> BOND (No. 15), and SECTION 8 and 55.]</p>	
<p>DECLARATION OF ANY TRUST. <i>See</i> TRUST (No. 64).</p>	
<p>28. 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 wharf, 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>	One anna.

¹Substituted by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), S. 3 (iii) for the original Article.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
DEPOSIT OF TITLE DEEDS, 1[<i>See</i> Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No.6)].	
DISSOLUTION OF PARTNERSHIP. <i>See</i> Partnership (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.
DOWER—Instrument of <i>See</i> Settlement (No. 58).	
DUPLICATE.— <i>See</i> Counterpart (No.25).	
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT 2[under the Indian Bar Councils Act, 1926, or] in exercise of powers conferred on such Court by Letters Patent or 3 by the Legal Practitioners Act, 1884—	
(a) in the case of an Advocate or Vakil.	Five hundred rupees.
(b) in the case of an Attorney ..	Two hundred and fifty rupees.
<i>Exemption.</i>	
Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High court.	
* * * * *	
31. EXCHANGE OF PROPERTY—Instrument of.	The same duty as a conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. <i>See</i> Copy (No. 24).	
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of article No. 40 (that is, with possession);	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.

1 Substituted for the words and figure " See agreement by way of equitable mortgage (No. 6) " by s. 8(2) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904).

2 Inserted by the Indian Bar Councils Act, 1926 (38 of 1926), S. 19 and Sch.

3 The words " under the Indian Bar Councils Act, 1926, or " have been inserted here by the Indian Bar Councils Act, XXXVIII of 1926.

4 The entry " EQUITABLE MORTGAGE " repealed by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 8(3).

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
32. FURTHER CHARGE— <i>concl.</i>	
(b) when such mortgage is one of the description referred to in clause (b) of article No.40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument ;	The same duty as a conveyance (No.23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given	The same duty as a Bond (No.15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a Settlement No.58 or will or Transfer No.62.	The same duty as a conveyance (No.23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or agreement for service. <i>See</i> Agreement No.5.	
34. INDEMNITY BOND	The same duty as a security Bond (No.57) for the same amount.
INSPECTORSHIP-DEED, <i>See</i> Composition Deed No.22.	
INSURANCE. <i>See</i> Policy of Insurance No.47.	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year ;	The same duty as a Bond (No.15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years ;	The same duty as a Bond (No.15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years ;	The same duty as a conveyance (No.23) for a consideration equal to the amount or value of the average annual rent reserved.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
35. LEASE— <i>contd.</i>	
(iv) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No.23) 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.
(v) where the lease purports to be in perpetuity;	The same duty as a Conveyance (No.23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No.23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved;	The same duty as a Conveyance (No.23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered:
<i>Exemptions.</i>	Provided that, in any case when an agreement to lease is stamped with the <i>advalorem</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.
(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) 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 average annual rent reserved does not exceed one hundred rupees.	* * * *

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
36. 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.	1. [Two annas.]
<i>See also</i> Certificate or other Document (No.19).	
37. LETTER OF CREDIT, that is to say any instrument by which one person authorises another to give credit to the person in whose favour it is drawn. LETTER OF GUARANTEE. <i>See</i> Agreement (No.5).	1. [Two annas.]
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Ten rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY— (a) If accompanied by articles of association under section 37 of the 1 Indian Companies Act, 1882 ; (b) If not so accompanied ..	Fifteen rupees. Forty rupees.
<i>Exemption.</i>	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.	VI of 1882.
(a) when 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.23) for a consideration equal to the amount secured by such deed.

1 Substituted by the Indian Stamp (Amendment) Act, 1923, (43 of 1923), S. 2 for "one anna".

2 See now Act VII of 1913.

3 Substituted by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 8(4) (a) "for a agreement to mortgage (No.6)."'

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
40. MORTGAGE-DEED— <i>contd.</i>	
(b) when 1 * * * possession is not given or agreed to be given as aforesaid ;	The same duty as a Bond (No.15) for the amount secured by such deed.
<p><i>Explanation.</i>—A mortagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.</p>	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs.1,000	Eight annas.
and for every Rs.1,000 or part thereof secured in excess of Rs.1,000.	Eight annas.
<i>Exemptions.</i>	
XIX of 1883.	(1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.
XII of 1884.	(2) Letter of hypothecation accompanying a bill-of-exchange.
2 * * * *	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs.200 ;	One anna.

1 The words "at time of execution" repealed by S. 8 (4) (b), *ibid.*

2 The exemption (3) repealed by Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 8 (4) (c).

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
41. MORTGAGE OF A CROP—<i>contd.</i> and for every Rs.200 or part thereof secured in excess of Rs.200 ;	One anna.
(b) when the loan is repayable more than three months, but not more than ¹ [eighteen months], from the date of the instrument— for every sum secured not exceeding Rs.100 ; and for every Rs.100 or part thereof secured in excess of Rs.100.	2 [Two annas.] 2 [Two annas.]
42. NOTARIAL ACT , that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a Protest (No.50) 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.
<i>See also</i> Protest of Bill or Note (No.50).	
43. NOTE OF MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal— (a) of any goods exceeding in value twenty rupees ; (b) of any stock or marketable security exceeding in value twenty rupees.	Two annas. Subject to a maximum of ten rupees, one anna for every Rs.10,000 or part thereof of the value of the stock or security.]
44. NOTE OF PROTEST BY THE MASTER OF A SHIP. <i>See also</i> Protest by the Master of a Ship (No.51). ORDER FOR THE PAYMENT OF MONEY. <i>See Bill-of-Exchange (No.13).</i>	Eight annas.

¹ Substituted by the Indian Stamp (Amendment) Act, 1906 (V of 1906), s.7(2), for "one year".

² Substituted by Act XV of 1904, s. 8(5), for "four annas".

³ Substituted the Indian Stamp (Amendment) Act, 1910 (VI of 1910), s.3(IV), for the original Article.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
45. PARTITION—Instrument of [as defined by s. 2(15)].	The same duty as a bond (No.15) for the amount of the value of the separated share or shares of the property.
<p><i>N. B.</i>—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:</p> <p>Provided always that—</p> <ul style="list-style-type: none"> (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument affecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas: (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue: (c) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas. 	
46. PARTNERSHIP—	Two rupees eight annas.
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs.500;	Two rupees eight annas.
(b) in any other case	Ten rupees.
B.—Dissolution of 1[PAWN OR PLEDGE.—See Agreement Relating to Deposit of title-deeds, Pawn or Pledge (No.6).]	Five rupees.

(Schedule I.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty	
If drawn singly.	If drawn in duplicate, for each part.	
47. POLICY OF INSURANCE—		
1[A.—Sea-Insurance (<i>see</i> section 7)—		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy ;	One anna ..	Half an anna.
(ii) in any other case, in respect of every full sum of 2[one thousand five hundred rupees] and also any fractional part of 2[one thousand five hundred rupees] insured by the policy ;	3 [One anna]	4[Half-an-anna.]
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months ;	Two annas ..	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ..	Two annas.

¹ Substituted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7(3), for the original Divisions A and B.

² Substituted by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and sch. 1, for "one thousand rupees".

³ Substituted by s. 2 and sch. 1, *ibid.*, for "two annas".

⁴ Substituted by s. 2 and sch. 1, *ibid.*, for "one anna".

(Schedule 1.—Stamp-duty on Instruments)

SCHEDULE I—*contd.*

Description of Instrument	Proper Stamp-duty
47. POLICY OF INSURANCE— <i>contd.</i>	
B.—1 [Fire Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops and other property against loss or damage]—	
(I) in respect of an original policy—	
(i) when the sum insured does not exceed Rs.5,000 ;	Eight annas.
(ii) in any other case and	One rupee..
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.]
C.—Accident and Sickness Insurance—	
(a) against railway accident, valid for a single journey only.	One anna..
<i>Exemption.</i>	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs.1,000 and also where such amount exceeds Rs.1,000, for every Rs.1000 or part thereof.	Two annas ; 2[Provided that, in the case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs.2-8-0 per Rs.1,000, the duty on such instrument shall be one anna for every Rs.1,000 or part thereof of the maximum amount which may become payable under it.]

1 Substituted by the Indian Stamp (Amendment) Act, 1923 (43 of 1923);
s.2(ii), for "Fire Insurance."

2 Inserted by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and sch. 1.

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty	
47. POLICY OF INSURANCE—contd.		
1[CC.—Insurance by way of indemnity against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs.100 or part thereof payable as premium.	One anna,	VIII of 1923.
2[D.—Life Insurance or other Insurance not specifically provided for, except such a Reinsurance as is described in Division B of this article—	If drawn singly	If drawn in duplicate, for each part
(i) for every sum insured not exceeding Rs.250;	Two annas ..	One anna.
(ii) for every sum insured exceeding Rs.250 but not exceeding Rs.500;	Four annas ..	Two annas.
(iii) for every sum insured exceeding Rs.500 but not exceeding Rs.1,000 and also for every Rs.1,000 or part thereof in excess of Rs.1,000.	Six annas ..	Three annas.
<i>Exemption</i>		
Policies of life insurance granted by the Director-General of the Post Offices in accordance with rules for Postal Life Insurance issued under the authority of the 3[Central Government].		
E.—Re-insurance by an Insurance Company, which has granted a Policy 4[of the nature specified in Division A or Division B of this Article] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.		One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.

1. Inserted by the Indian Stamp (Amendment) Act, 1925 (XV of 1925);
 s. 2.

2. Substituted by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for original Division D.

3. Substituted by the A. O. for "G. G. in C."

4. Substituted by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for "OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE."

(Schedule I—Stamp-duty on Instruments)

SCHEDEULE I—continued

Description of Instrument	Proper Stamp-duty
47. POLICY OF INSURANCE—concl.	
<p style="text-align: center;"><i>General Exemption</i></p> <p>Letter of cover or engagement to issue a policy of insurance:</p>	
<p>Provided that, unless such letter or engagement bears 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.</p>	
48. POWER-OF-ATTORNEY [as defined by section 2(21)], not being a proxy (No. 52),—	
<p>(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents ;</p>	Eight annas.
<p>(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882 ;</p>	Eight annas.
<p>(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a) ;</p>	One rupee.
<p>(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally ;</p>	Five rupees.
<p>(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;</p>	Ten rupees.
<p>(f) when given for consideration and authorising the attorney to sell any immoveable property ;</p>	The same duty as a Conveyance (No. 23) for the amount of the consideration.
<p>(g) in any other case</p>	One rupee for each person authorised.
<p><i>Explanation.</i>—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.</p>	<p><i>N. B.</i>—The term “registration” includes every operation incidental to registration under the ¹Indian Registration Act, 1877.</p>

¹ See now the Indian Registration Act, 1908 (16 of 1908).

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty
49. 1[PROMISSORY NOTE [as defined by section 2(22)]— (a) when payable on demand— (i) when the amount or value does not exceed Rs.250 ; (ii) when the amount or value exceeds Rs.250, but does not exceed Rs.1,000, (iii) in any other case (b) when payable otherwise than on demand.	One anna.
	Two annas.
	Four annas.
	The same duty as a Bill-of-Exchange (No.13) for the same amount payable otherwise than on demand.
	One rupee.
50. PROTEST OF BILL OR NOTE, 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.]	
51. 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 the 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.	One rupee.
<i>See also Note of Protest by the Master of a Ship (No. 44.)</i>	
52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the funds of any institution.	2[Two annas.]
53. RECEIPT [as defined by section 2(23)] for any money or other property the amount or value of which exceeds twenty rupees.	One anna.

1. Substituted by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for the original Article.

2. Substituted by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for "one anna".

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty
<p>53. RECEIPT—<i>contd</i> <i>Exemptions</i></p> <p>Receipt—</p> <p>(a) endorsed on or contained in any instrument duly stamped, 1[or any instrument exempted] under the proviso to section 3 (instruments executed on behalf of the 2[Crown] 3[or any cheque or Bill-of-Exchange payable on demand] 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 ;</p> <p>(b) for any payment of money without consideration ;</p> <p>(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 ;</p> <p>(d) for pay or allowances by non-commissioned 4[or petty] officers, 5[soldiers,] 4[sailors] or airmen of 6[His Majesty's Military 4[Naval] or [air forces] when serving in such capacity, or by mounted police-constables ;</p> <p>(e) 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 4[or petty] officer, 7[soldier 4[sailor] or airmen] of 8[any of the said forces] and serving in such capacity;</p> <p>(f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned 4[or petty] officers, 5[soldiers, 4[sailors] or airmen] and not serving the 9[Crown] in any other capacity ;</p> <p>(g) given by a headman or lambardar for land revenue or taxes collected by him ;</p> <p>(h) given for money or securities for money deposited in the hands of any banker, to be accounted for :</p>	

1. Substituted by the Repealing and Amending Act, 1928 (18 of 1928),

2 and Sch. I, for " or exempted."

2. Substituted by the A. O. for " Government."

3. Inserted by the Repealing and Amending Act, 1928 (18 of 1928),

2 and Sch. I.

4. Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch. I.

5. Substituted by the Repealing and Amending Act, 1927 (10 of 1927),

2 and Sch. 1, for " or soldiers."

6. Substituted by s. 2 and Sch. I, *ibid*, for " Her Majesty's Army or Her Majesty's Indian Army."

7. Substituted by s. 2 and Sch. I, *ibid*, for " or soldier."

8. Substituted by s. 2 and Sch. I, *ibid*, for "either of the said Armies."

9. Substituted by A. O. for " Government."

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty
53. RECEIPT— <i>contd.</i>	Exemptions—concl'd.
<p>Provided that the same is 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:</p> <p>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 incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.</p>	<p>¹[See also Policy of insurance No. 47-B(2).]</p>
54. RECONVEYANCE OF MORTGAGED PROPERTY—	<p>The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.</p>
Ten rupees.	
<p>(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;</p> <p>(b) in any other case</p>	<p>The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.</p>
(a) if the amount or value of the claim does not exceed Rs. 1,000 ;	
<p>(b) in any other case</p>	<p>The same duty as a Bond (No. 15) for the amount of the loan secured.</p>
Five rupees.	
56. 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. 15) for the amount of the loan secured.	
REVOCATION OF ANY TRUST OR SETTLEMENT.—See Settlement (No. 58), Trust (No. 64).	

1. Inserted by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7 (4).

2. Inserted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (7).

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—*continued*

Description of Instrument	Proper Stamp-duty
<p>57. SECURITY BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—</p>	<p>The same duty as a Bond (No. 15) for the amount secured.</p>
<p>(a) When the amount secured does not exceed Rs. 1,000 ;</p>	<p>Five rupees.</p>
<p>(b) in any other case</p>	<p>Five rupees.</p>
<p><i>Exemptions</i></p>	
<p>Bond or other instrument, when executed—</p>	
<p>(a) by headmen nominated under rules framed in accordance with the ¹Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;</p>	
<p>(b) by 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 ;</p>	
<p>(c) under No. 3A of the rules made by the ²[Provincial Government] under section 70 of the ³Bombay Irrigation Act, 1879 ;</p>	
<p>(d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances ;</p>	
<p>(e) executed by officers of ³[the Crown] or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.</p>	

1. Ben. Code.

2. Substituted by the A. O. for "Governor of Bombay in Council"
. Ben. Code.

. Substituted by the A. O. for "Government".

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty
58. SETTLEMENT— A.—Instrument of (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement:
	Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.
Exemptions (a) Deed of dower executed on the occasion of a marriage between Muhammadans. 1* * * * *	
B.—Revocation of <i>See also Trust (No. 64).</i>	The same duty as a Bond (No. 15) for a sum equal to the amount of value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.
59. SHARE WARRANTS to bearer issued under the ³ Indian Companies Act, 1882.	2[One and a half times] the duty payable on a Conveyance VI of 1882, (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemption Share warrant when issued by a Company in pursuance of the ³ Indian Companies Act, 1882, section 430, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of—	
(a) [One and a half] per centum of the whole subscribed capital of the company, or	

1. Exemption (b) rep. by the A. O.

2. Substituted by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3 (V), for "Three quarters of".

3. See now Indian Companies Act 1913 (7 of 1913).

4. Now section 43 of Act VII of 1913.

5. Substituted by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s.3(V), f.e., "Three-quarters".

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—continued

Description of Instrument	Proper Stamp-duty
59. SHARE WARRANTS—concl. <i>Exemption</i> —concld.	
(b) If any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital 1[one and a half] per centum of the additional capital so issued.	
SCRIP.—See Certificate (No. 19).	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.
61. SURRENDER OF LEASE — (a) when the duty with which the lease is chargeable does not exceed five rupees ; (b) in any other case	The duty with which such lease is chargeable.
<i>Exemption</i>	Five rupees.
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)— (a) of shares in an incorporated company or other body corporate ;	2[One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8 ;	2[One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage deed or policy of insurance,— (i) if the duty on such bond, mortgage deed or policy does not exceed five rupees ;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case	Five rupees.
(d) of any property under the 3 Administrator General's Act, 1874, section 31 ;	Ten rupees.
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.

1. Substituted by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), s. 3 (V), for "Three quarters of."

2. Substituted by s. 3 (VI), *ibid* for "One-quarter".

3. See now the Administrator General's Act, 1913 (3 of 1913).

(Schedule I—Stamp-duty on Instruments)

SCHEDULE I—contd.

Description of Instrument	Proper Stamp-duty
62. TRANSFER— <i>contd.</i>	
<p><i>Exemptions</i></p> <p>Transfers by endorsement—</p> <p>(a) of a bill-of-exchange, cheque or promissory note ;</p> <p>(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;</p> <p>(c) of a policy of insurance ;</p> <p>(d) of securities of the ¹[Central Government].</p> <p><i>See also Section 8.</i></p>	
<p>63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.</p> <p><i>Exemption</i></p> <p>Transfer of any lease exempt from duty.</p>	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
<p>64. TRUST—</p> <p>A.—Declaration of—of, or concerning, any property when made by any writing not being a Will.</p> <p>B.—Revocation of—of, or concerning, any property when made by any instrument other than a Will.</p> <p><i>See also Settlement (No. 58).</i></p>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.</p> <p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.</p>
<p>VALUATION. <i>See Appraisement (No. 8).</i></p> <p>VAKIL. <i>See Entry as a Vakil (No. 30).</i></p> <p>65. WARRANT FOR GOODS, that is to say, any instrument evidencing 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, ware-house or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>	Four annas.

Schedule II.—[Enactments repealed.] Rep. by the Repealing and Amending Act, 1914 X of 1914), s.3 and Sch. II.



12

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14

Act No.XIII of 1924

PASSED BY THE INDIAN LEGISLATURE

(Received the assent of the Governor General on the 13th June
1924)*An Act to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments.*

WHEREAS it is expedient to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments ; it is hereby enacted as follows :—

II of 1899.

1.(1) This Act may be called the Indian (Specified Short title
and extent.) Stamp Act, 1924.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. In this Act,—

Definitions.

(a) “instrument to which this Act applies” means—

(i) any instrument mentioned in Article No. 19, No. 36, No. 37, or No. 52 in Schedule I to the Indian Stamp Act, 1899, or

II of 1899.

(ii) any promissory note payable on demand for an amount exceeding two hundred and fifty rupees,

which has been executed in British India at any time after the 30th day of September, 1923, and before the 1st day of April, 1924, and which has been stamped in such a manner that it would have been duly stamped for the purposes of the Indian Stamp Act, 1899, if the Indian Stamp (Amendment) Act, 1923, had not been passed ; and

II of 1899.

XLIII of
1923.

(b) “section” means a section of the Indian Stamp Act, 1899.

I of 1899.

Application
of certain
provisions of
Act II of
1899.

3.(1) No exception or restriction in respect of pro-missory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

Note.—The object of this Act was to validate certain instruments which had not been sufficiently stamped under the Indian Stamp Amendment Act, 1923. The provisions of that amending Act did not in some cases become known in time, with the result that certain instruments, the duty on which had been enhanced, were executed on insufficient stamps and could not be validated or used in evidence.

Act No. XI of 1926

THE PROMISSORY NOTES (STAMPS) ACT, 1926

An Act to provide for the validation of certain promissory notes

WHEREAS it is expedient to provide for the validation of certain promissory notes stamped with postage stamps of the denomination of two or four annas; It is hereby enacted as follows:—

1. (1) This Act may be called the Promissory Notes (Stamp) Act, 1926. Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. A promissory note payable on demand for an amount exceeding two hundred and fifty rupees, executed after the 30th day of September, 1923, and before the 5th day of January, 1925, and stamped with an adhesive stamp or adhesive stamps inscribed for postage and of the value required by the law in force at the time the promissory note was executed, shall not, by reason only of the fact that the stamp or the stamps or any of them is or are of a description other than that required by such law, be deemed for any of the purposes of the Indian Stamp Act, 1899, or of the rules made thereunder, not to have been duly stamped. Validation of certain promissory notes.

PART 1

STATUTORY RULES OF THE GOVERNMENT
OF INDIA

SECTION I

THE INDIAN STAMP RULES, 1925 (AS SUBSEQUENTLY
AMENDED)

No. C.-63—Stamps—25, dated the 5th May 1925.

Notification by—The Government of India in the Finance and Commerce Department.

In exercise of the powers conferred by the Indian Stamp Act, 1899 (II of 1899), and in supersession of the notifications of the Government of India in the Finance Department, No. 1140-F., dated the 14th August 1914, and of all notifications amending the same, the Governor General in Council is pleased to make the following rules, namely:—

RULES UNDER THE INDIAN STAMP ACT, 1899

CHAPTER I

Preliminary

Short title. 1. These rules may be called the Indian Stamp Rules, 1925.

Definitions. 2. In these rules—

- (a) “The Act” means the Indian Stamp Act, 1899 (II of 1899).
- (b) “Section” means a section of the Act.
- (c) “Schedule” means a schedule of the Act.
- (d) “Superintendent of Stamps” means the Superintendent of Stamps, Madras, Bombay, Karachi, Rangoon or Nagpur and includes the Financial Commissioner, Punjab, and any other

officer appointed by the Local Government to perform the functions of a Superintendent of Stamps.

Description of Stamps. 3. (1) Extra as otherwise provided by the Act or by these rules,—

- (i) all duties with which any instrument is chargeable shall be paid, and such payment shall be indicated on such instrument, by means of stamps issued by the Government for the purposes of the Act, and
- (ii) a stamp which by any word or words on the face of it is appropriated to any particular kind of instrument, shall not be used for an instrument of any other kind.

(2) There shall be two kinds of stamps for indicating the payment of duty with which instruments are chargeable, namely:—

- (a) impressed stamps, and
- (b) adhesive stamps.

CHAPTER II

Of Impressed Stamps

4.(1) Hundis, other than hundis which may be stamped with an adhesive stamp under section 11, shall be written on

Hundis. paper as follows, namely:—

- (a) A hundi payable otherwise than on demand, but not at more than one year after date or sight, and for an amount not exceeding rupees thirty thousand in value, shall be written on paper on which stamp of the proper value bearing the word "hundi" has been engraved or embossed.
- (b) A hundi for an amount exceeding rupees thirty thousand in value, or payable at more than one year after date or sight, shall be written on paper supplied for sale by the Government, to which a label has been affixed by the Collector of Stamp Revenue, Calcutta, or a Superintendent of Stamps, and impressed by such officer in the manner prescribed by rule 11.

(2) Every sheet of paper on which a hundi is written shall be not less than $8\frac{5}{8}$ inches long and $5\frac{1}{8}$ inches wide and no plain paper shall be joined thereto.

(3) The provisions of sub-section (1) of rule 7 shall apply in the case of hundis.

5. A promissory note or bill-of-exchange shall, except as provided by section 11 or by rules 13 and 17, be written on paper on which a stamp of the proper value, with or without the word "hundi," has been engraved or embossed.

6. Every other instrument chargeable with duty shall, except as provided by section 11 or by rules 10, 12 and 13 be written on paper on which a stamp of the proper value, not bearing the word "hundi" has been engraved or embossed.

7.(1) Where two or more sheets of paper on which stamps are engraved or embossed 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 sheet so used.

(2) Where a single sheet of paper, not being paper bearing an impressed hundi-stamp, is insufficient to admit of the entire instrument being 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 such instrument:

Provided that in every such case a substantial part of the instrument shall be written on the sheet which bears the stamp before any part is written on the plain paper subjoined.

8. The duty on any instrument which is chargeable with a duty of one anna under the Act or of two annas under articles 5, 19, 36, 37, 43, 49 and 52 of Schedule I, may be denoted by a coloured impression marked on a skeleton form of such instrument by the Collector of Stamp Revenue, Calcutta, or the Superintendent of Stamps.

One anna and two annas, impressed stamps.

9. The officers specified in Appendix I and any "The proper officer". officer appointed in this behalf by the Local Government of a Governor's Province, are empowered to affix and impress or perforate labels, and each of them shall be deemed to be "the proper officer" for the purposes of the Act and of these rules.

10. Labels may be affixed and impressed or per-

Affixing and impressing of labels by proper officer permissible in certain cases. forated by the proper officer in the case of any of the following instruments, namely :—

- (i) those specified in Appendix II, and the counterparts thereof other than instruments on which the duty is less than two annas ; and
- (ii) those specified in Appendix III, when written in any European language, and accompanied, if the language is not English, by a translation in English :

Provided that the Local Government may direct that this rule shall apply, subject to any conditions which it may prescribe, to any of the instruments, specified in Appendix III, other than Bills-of-Exchange, when written in any oriental language.

11.(1) The proper officer shall, upon any instru-

Mode of affixing and impressing labels. ment specified in rule 10 being brought to him before it is executed, and upon application being made to him, affix, thereto a label or labels of such value as the applicant may require and pay for, and impress or perforate such label or labels by means of a stamping machine or a perforating machine, and also stamp or write on the face of the label or labels the date of impressing or perforating the same. In the case of instruments written on parchment, the labels shall be further secured by means of metallic eyelets.

(2) On affixing any label or labels under this rule, the proper officer shall, where the duty amounts to rupees five or upwards, write on the face of the label or labels his initials, and where the duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument immediately under the label or labels.

(3) The following officers may discharge the functions of the proper officer under sub-rule (2), namely :—

- (i) Any principal assistant of the proper officer empowered by the Local Government in this behalf;
- (ii) In Calcutta, the Deputy Collector and the Superintendent of the Stamp Department of the Collector's office;
- (iii) In Karachi, the Assistant Superintendent of Stamps; and
- (iv) In Lahore, the head or any other Assistant for the time being in charge of the stamping work in the Financial Commissioner's office.

12.(1) Instruments executed out of British India and requiring to be stamped after their receipt in British India (other than instruments which, under section 11 or rule 13, may be stamped with adhesive stamps) shall be stamped with impressed labels.

Certain instruments to be stamped with impressed labels.

(2) Where any such instrument as aforesaid is taken to the Collector under section 18, sub-section (2), the Collector, unless he is himself the proper officer, shall send the instrument to the proper officer, remitting the amount of duty paid in respect thereof; and the proper officer shall stamp the instrument in the manner prescribed by rule 11, and return it to the Collector for delivery to the person by whom it was produced.

CHAPTER III

Of Adhesive Stamps

13. The following instruments may be stamped

Use of adhesive stamps on certain instruments.

with adhesive stamps, namely :—

- (a) Bills-of-exchange payable otherwise than on demand and drawn in sets, when the amount of duty does not exceed one anna for each part of the set.

- (b) Transfers of debentures of public companies and associations.
- (c) Copies of maps and plans, printed copies and copies of or extracts from registers given on printed forms when chargeable with duty under Article 24 of Schedule I.
- (d) Instruments chargeable with duty under Articles 5(a) and (b) and 43 of Schedule I.
- (e) Instruments chargeable with stamp duty under Article 47 of Schedule I.
- (f) Instruments chargeable with stamp duty under Articles 19, 36, 37, 49(a) (ii) and (iii) and 52 of Schedule I.

13A. Notwithstanding anything contained in these rules whenever the stamp duty payable under the Act in respect of any instrument cannot be paid exactly by reason of the fact that the necessary stamps are not in circulation, the amount by which the payment of duty shall on that account be in defect shall be made up by the affixing of one-anna and half-anna adhesive stamps such as are described in rule 16, provided that a Local Government may direct that instead of such stamps adhesive court-fee stamps shall be used for the purpose.

14. When any instrument of transfer of shares in

a company or association is written

Supply of deficient duty on transfer of share.

on a sheet of paper on which a stamp of the proper value is engraved or embossed, and the value of the stamp so engraved or embossed is subsequently, in consequence of a rise in the value of such shares, found to fall short of the amount of duty chargeable under Article 62(a) of Schedule I, one or more adhesive stamps bearing the words "Share Transfer" may be used to make up the amount required.

15. When adhesive stamps are used to indicate the duty chargeable on entry as an

Advocate, Vakil or Attorney on the

Enrolment of Advocates, Vakils or Attorneys.

roll of any High Court, such stamps shall be affixed under the Superintendence of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps or other officer appointed in this behalf by the

Local Government and account to him for it. Such gazetted officer shall, after affixing the stamp, write on the face of it his usual signature with the date thereof.

Adhesive stamp or stamps denoting duty of four annas, two annas, one anna or half an anna.

16. Except as otherwise provided by these rules, the adhesive stamps used to denote duty shall be the requisite number of stamps—

- (i) bearing the words "four annas" or "two annas" or "one anna" or "half anna" and
- (ii) (a) in the case of instruments executed elsewhere than in Burma, bearing the words "India Revenue" or where the instrument has been executed in Bihar and Orissa the words "Revenue B. & O." or where the instrument has been executed in the Bombay Presidency the words "Bombay Revenue".
- (b) in the case of instruments executed in Burma, inscribed for use either for postage or for revenue or for both postage and revenue.

17. The following instruments when stamped with adhesive stamps shall be stamped with the following descriptions of such stamps, namely:—

Special adhesive stamps to be used in certain cases.

- (a) Bills-of-exchange, cheques and promissory notes drawn or made out of British India and chargeable with a duty of more than one anna : with stamps bearing the words "Foreign Bill".
- (b) Separate instruments of transfer of shares and transfers of debentures of public companies and associations : with stamps bearing the words "Share Transfer".
- (c) Entry as an Advocate, Vakil or Attorney on the roll of any High Court : with stamps bearing the word "Advocate," "Vakil" or "Attorney" as the case may be.
- (d) Notarial acts : with foreign bill stamps bearing the word "Notarial".
- (e) Copies of maps or plans printed copies and copies of or extracts from registers given on printed forms certified to be true copies : with court-fee stamps.

(/) Instruments chargeable with stamp-duty under Articles 5(a) and (b) or 43 of Schedule I: with stamps bearing the words "Agreement" or "Brokers Note" respectively.

(g) Instruments chargeable with stamp-duty under Article 47 of Schedule I: with stamps bearing the word "Insurance".

CHAPTER IV

Miscellaneous

18. When an instrument bears a stamp of proper

Provision for cases
in which improper
description of stamps
is used.

amount, but of improper description, the Collector may, on payment of the duty with which the instrument is chargeable, certify by endorsement

that it is duly stamped:

Provided that where the stamp borne on the instrument is a postage stamp and the proper description of stamp is a stamp bearing the words "India Revenue", or the words "Revenue B. & O." or the words "Bombay Revenue" the Collector shall so certify if the instrument was executed before, and shall not so certify if it was executed on or after, the 1st April 1935.

19. The Collector may require any person claiming

Evidence as to cir-
cumstances of claim to
refund or renewal.

ing a refund or renewal under Chapter V of the Act, or his duly authorised agent, to make an oral deposi-

tion on oath or affirmation, or to file an affidavit, setting forth the circumstances under which the claim has arisen, and may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in any such deposition or affidavit.

Note.—Collectors should bear in mind that it is not obligatory to require a deposition or affidavit in every case. It will ordinarily be sufficient to have the application verified as provided in the form of application.

20. When an application is made for the payment,

Payment of allow-
ances in respect of
spoiled or misused
stamps or on the re-
newal of debentures.

under Chapter V of the Act, of an allowance in respect of a stamp, which has been spoiled or misused or for which the applicant has no immediate use, or on the renewal of a debenture, and an order is passed by the Collector

sanctioning the allowance or calling for further evidence in support of the application, then, if the amount of the allowance or the stamp given in lieu thereof is not taken, or if the further evidence required is not furnished, as the case may be, by the applicant within one year of the date of such order, the application shall be struck off, and the spoiled or misused stamp (if any) sent to the Superintendent of Stamps or other officer appointed in this behalf by the Local Government for destruction.

21. When the Collector makes a refund under

Mode of cancelling
original debenture on
refund under section
55.

section 55, he shall cancel the original debenture by writing on or across it the word "Cancelled" and his usual signature with the date thereof.

22. On the conviction of any offender under the

Rewards.

Act, the Collector may grant to any person who appears to him to have contributed thereto a reward not exceeding such sum as the Local Government may fix in this behalf.

APPENDIX I

“ Proper officers ” within the meaning of Rule 9

1. The Superintendent of Stamps.
2. The Superintendent of Stamps (Political Resident), Aden.
3. The Collector of Stamp Revenue, Calcutta.
4. The Collector, or, in the absence of the Collector from headquarters, the Treasury Officer, of each of the following districts, namely :—
 - (1) Godavari.
 - (2) Tinnevelly.
 - (3) Malabar.
 - (4) South Canara.
 - (5) Chittagong.
5. The Treasury Officers, Moulmein, Akyab, Tavoy and Bassein.
6. The Deputy Tahsildar and the Sub-Collector at Tuticorin, and the Saristhadar-Magistrate at Cochin in respect of any instrument for which the value of the labels required does not exceed fifty rupees, and the Tahsildar at Kottayam in respect of any instrument for which the value of the labels required does not exceed one rupee.
7. The Assistant Superintendent of Stamps, Assam.

APPENDIX II

List of Instruments referred to in Rule 10(i)

				No. of Article in Schedule I
1.	Administration-bond	...	...	2
2.	Affidavits	...	...	4
3.	Appointments made in execution of a power...			7
4.	Articles of Association of a Company	...		10
5.	Articles of clerkship	...	...	11
6.	Bills-of-lading	...	...	14
7.	Charter parties	...	...	20
8.	Declarations of trust	...	...	64A
9.	Instruments evidencing an agreement relating to (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security) or (2) the pawn or pledge of hypothecation of moveable property.			6
10.	Leases partly printed or lithographed in an oriental language, when the written matter does not exceed one-fourth of the printed matter.			35
11.	Memoranda of Association of Companies	...		39
12.	Mortgages of crops	...	...	41
13.	Notes of protest by Masters of Ships	...		44
14.	Revocations of trust	...	...	64B
15.	Share warrants issued by a Company in accordance with section 43 of the Indian Companies Act, 1913 (VII of 1913).			59
16.	Warrants for goods	...	...	65
17.	Note or memorandum when the duty payable exceeds two annas.			43B
18.	Transfers of the descriptions mentioned in Article 62, clauses (a) and (b) of Schedule I, when the duty payable exceeds Rs. 10.			

APPENDIX III

*List of Instruments referred to in Rule 10(ii)*No. of Article
in Schedule I.

1. Agreements or memoranda of agreements which, in the opinion of the proper officer, cannot conveniently be written on sheets of paper on which the stamps are engraved or embossed.	5
2. Instruments engrossed on parchment and written in the English style which, in the opinion of such officer, cannot conveniently be written on sheets of paper on which the stamps are engraved or embossed.	
3. Awards	12
4. Bills-of-exchange payable otherwise than on 13 (b) and demand and drawn in British India. (c).	
5. Bonds	15, 16, 26, 34, 56 & 57
6. Certificates of sale	18
7. Composition-deeds	22
8. Conveyances	23
8A. Debentures	27
9. Instruments imposing a further charge on mortgaged property.	32
10. Instruments of apprenticeship	9
11. Instruments of co-partnership	46A
12. Instruments of dissolution of partnership ...	46B
13. Instruments of exchange	31
14. Instruments of gift	33
15. Instruments of partition	45
16. Leases	35
17. Letters of license	38
18. Mortgage-deeds	40
19. Powers-of-attorney	48
20. Reconveyances of mortgaged property ...	54
21. Releases	55
22. Settlements	58
23. Transfers of the description mentioned in Article 62, clauses 62(c), (d) and (e) of Schedule I.	

PART I

SECTION 2

REMISSIONS AND REDUCTIONS OF STAMP DUTIES

NOTIFICATION

STAMPS

Simla, the 12th September 1931

No. 6.—In exercise of the powers conferred by clause (a), of section 9 of the Indian Stamp Act, 1899 (II of 1899), and in supersession of all previous notifications issued from time to time under the said clause of the said section, the Governor General in Council is pleased to reduce, to the extent set forth in each case, the duties chargeable under the said Act in respect of the instruments hereinafter described under Nos. 3, 4, 10, 23, 25, 48, 74, 89, 90, 91, 98, 102, 109, 110 and 111, and to remit the duties so chargeable in respect of instruments of the other classes hereinafter described :—

Note.—References which do not concern Assam have been omitted.

A.—Land Revenue

1. Lease or counterpart thereof executed at the time of settlement made directly by the Government with the existing occupant of land, whether a zaminder or a tenant, and whether self-cultivating or not :

Provided that no fine or premium is paid in consideration of the lease.

* * * * *

5. Instrument executed for the purpose of securing the repayment of a loan made, or to be made under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884), including an instrument whereby a landlord binds himself to consent to the transfer, in the event of default in such repayment, of any land, or interest in land, on the security of which any such loan is made to his tenant.

6. Receipt given by a person for advances exceeding Rs. 20 received by him from the Government under the Agriculturists' Loans Act, 1884 (XII of 1884).

* * * * *

27. Patta granted on behalf of the Government in Assam to a holder of land for ordinary cultivation.

28. Agreement or counterpart of an agreement executed in the course of arrangements made by the Government in Assam for the collection of land revenue and cesses.

29. Security bond or mortgage deed executed by a person who has entered into an agreement to collect and pay in land revenue and cesses, or by the surety of such a person to secure the due accounting for money collected by that person under such agreement.

* * * * *

C.—Forest Department

40. Agreement and security bond required to be executed, under the rules to regulate the training and appointments in the Subordinate Forest Service, by a student and his surety previous to his entry into a Forest School or College in British India.

41. Instrument in the nature of a conveyance by the Government of standing trees or any other forest produce in a Government forest; and also the following instruments :—

(1) In Madras, Bengal, Central Provinces and Assam—

- (i) Contract for the collection of minor produce, barks, etc.;
- (ii) Contract for felling and removing trees;
- (iii) Contract for the collection, removal and disposal of stock in coupes subject to obligation to coppice and clear the area;
- (iv) Contract for the purchase of timber or firewood to be felled or cut departmentally;
- (v) Contract of the usufruct of trees and tops;
- (vi) Contract for the felling or cutting and purchase of timber or firewood;

- (vii) Kancha or grazing lease ;
- (viii) Agreement for felling and conversion of timber ;
- (ix) Agreement for right to collect seigniorage on minor produce brought for sale by hill tribes ;
- (x) Agreement for cultivation under the *taungya* system in reserved or protected forests ;
- (xi) Agreement for hunting, shooting or fishing in reserved or protected forests.

D.—Scholarships, Stipends, etc.

42. Agreement, bond or security bond required to be executed by or on behalf of the holder of a scholarship or stipend awarded by Government.

43. Agreement or security bond required to be executed by or on behalf of a non-stipendiary student of any Government or Government-aided Normal School in Burma who is exempted from charges for tuition.

44. Security bond taken under the authority of the Government from a Military Medical student of the Assistant Surgeon Branch of the Indian Medical Department or from a woman stipendiary of the Government School of Indian Medicine, Madras, or from the surety of any such student or woman stipendiary.

45. Agreement or security bond required to be executed by a student or his sureties previous to his entry into the Madras Veterinary College or to any Agricultural or Veterinary College in Assam or Burma.

E.—Educational Institutions

46. Instrument executed in favour of Government by the Managing Authority of an Educational Institution in Burma, Assam or Ajmer-Merwara aided by Government, with the object of securing by hypothecation of land and buildings belonging to the institution, that grants-in-aid to the institution are refunded if the said land and buildings are not used for educational purposes or if the education given by the institution is defective or unsatisfactory.

47. Instrument executed in favour of Government by the Managing Authority of an Educational Institution in Assam with the object of securing the due use of land which such institution has been permitted to occupy under the Assam Grants-in-aid Code.

48. Trust deed entered into in compliance with the rules for the time being in force in the Bombay Presidency, the Punjab, Bengal, Bihar and Orissa and Assam, regulating grants-in-aid made by the Government for building purposes to schools and colleges in those provinces. Duty reduced to the amount payable in respect of a bond for like amount or value, or to Rs. 15, whichever shall be less.

F.—Medical Department

49. Bond required to be executed by persons selected by the Government of Assam for appointment as Civil Assistant or Sub-Assistant Surgeons.

* * * * *

G.—Post Office and Telegraph Department

54. Letter which a person depositing money in a Post Office Savings Bank, as security to the Government or a local authority for the due execution of an office or for the fulfilment of a contract or for any other purpose, is required to address to the Postmaster in charge of the Post Office Savings Bank agreeing to special conditions with respect to the application and withdrawal of the money deposited and the payment of interest accruing due thereon.

55. Receipt given by, or on behalf of, a depositor in a Post Office Savings Bank for a sum of money withdrawn from any such Bank.

56. Receipt endorsed by the payee on a postal money order or given by the payee to the post office for a sum paid to him in adjustment of a short or wrong payment of such an order.

57. Receipt endorsed by the holder of a post office cash certificate at the time of its discharge.

58. Receipt given by an officer of the Indian Postal and Telegraph Department in respect of a sum paid to him by the Government as advance for the purchase of railway or steamer tickets.

H.—Railways and Inland Steamer Companies

59. Agreement made with a Railway Company or Administration or an Inland Steamer Company for the conveyance of goods.

60. Agreement or indemnity bond given to a Railway authority or an Inland Steamer Company by a passenger permitted to travel without payment of fare, indemnifying such authority or Company from any claim for damages in case of accident or injury.

61. Agreement or indemnity bond given to a Railway authority or an Inland Steamer Company by a consignee (when the Railway receipt or bill of lading is not produced) in respect of the delivery of articles carried at half parcels rates or at goods rates, namely, fresh fish, fruits, vegetables, bazar baskets, bread, meat-ice, and other perishable articles.

62. Agreement made with a Railway Company or Administration which purports to limit the responsibility of the Company or Administration as declared by the Indian Railways Act, 1890 (IX of 1890), section 72, sub-section (1), and is in a form approved by the Governor General in Council under sub-section (2) of that section.

63. Receipt or bill of lading issued by a Railway Company or Administration or an Inland Steamer Company for the fare for the conveyance of passengers or goods, or both, or animals, or for any charges incidental to the conveyance thereof or given to such Company or Administration or Inland Steamer Company for the refund of an overcharge made in respect of such fare or charges.

64. Receipt given by a Railway Company or Administration or an Inland Steamer Company for money received by it from another Railway Company or Administration or Inland Steamer Company, or from a Tramway Company or other Carrying Company on account of its share of fares or freight for the conveyance in through traffic of passengers or goods or both or of animals.

J.—Government Officers and Contractors

65. Agreement paper passed by a contractor of the Supply and Transport Corps where his security deposit is transferred to a Post Office Savings Bank.

66. Instrument in the nature of a memorandum or agreement furnished to, or made or entered into with a Supply and Transport Officer by a contractor.

67. Agreement or declaration by which a tender made to a Supply and Transport Officer is accepted as a contract, where the deposit of the contractor as security for his contract is made in Government of India Promissory Notes or in cash.

68. Instrument in the nature of a memorandum, agreement or security bond furnished to or made, or entered into by a contractor for the due performance of his contracts with :—

- (a) the Ordnance Department, or
- (b) the Army Clothing Department, or
- (c) the Military Farms Department, or
- (d) the Opium Department, or
- (e) the Forest Department, or
- (f) the State Railway Department, or
- (g) the Public Works Department, or any other administrative department empowered to execute public works, or
- (h) the Revenue Department in the Madras Presidency in respect of minor irrigation works contracts, or
- (i) the Public Health Department in Bihar and Orissa or in the United Provinces, or
- (j) the Police Department in Assam in respect of contracts for the supply of rations to Assam Rifles and the Civil Police, or
- (k) the Industries Department in the United Provinces in respect of contracts for the supply of stores for the public service, or
- (l) the Jails Department in Assam in respect of contracts for the supply of articles for use in jails in that province.

* * * * *

71. Instrument furnished to or made or entered into with any of the departments mentioned in item 68 by a contractor under which the due performance of any contract is secured by the deposit of money or of

Government or other securities ; and (except in Burma) an instrument under which materials belonging to a contractor are mortgaged as security for an advance made to him by any such department.

72. Mortgage deed executed by an officer of Government in Civil or Military employ for securing the repayment of an advance received by him from the Government for the purpose of constructing, purchasing or repairing a dwelling house for his own use.

73. Instrument of reconveyance of mortgaged property executed by Government in favour of any person who is or has been in the Civil or Military employ of Government on the repayment of an advance received by him from the Government for the purpose of constructing, purchasing or repairing a dwelling house for his own use.

73-A. Instrument of re-conveyance executed by Government in respect of property mortgaged by an officer of Government or his surety as security for the due execution of an office or the due accounting for money or other property received by virtue thereof.

74. Agreement which has been or may be entered into in compliance with the rules prescribed in Appendix XXII-A of Regulations for the Army in India for regulating the deposits of regimental funds with private banks or firms or such other rules for that purpose as may hereafter be in force. Duty reduced to the amount payable in respect of a bond for like amount or value or to Rs.5, whichever shall be less.

75. Mortgage deed or agreement executed by an officer of Government for securing the repayment of an advance received by him from Government for the purpose of purchasing a motor car, a motor boat, a motor cycle, a horse, a cycle or a typewriter.

76. Agreement executed by an officer of the Government relating to the payment of an advance received by him from the Government for defraying the cost of passages for himself or his family or both.

77. Receipt given for pension or allowances paid by Government to an heir of a deceased non-commissioned officer or soldier in respect of service in His Majesty's Army or in His Majesty's Indian Army.

78. Authority in writing executed under rule 1, Order XXVIII of the Code of Civil Procedure, 1908 (Act V of 1908), by an officer or soldier actually serving the Government in a Military capacity authorising any person to sue or defend in his stead in a Civil Court.

K.—Other Documents

79. Bill-of-exchange drawn in Mysore, on which the full rate of stamp duty has been paid there, where the same is negotiated in British India.

80. Receipt given for payment of interest on Government of India Promissory Notes.

81. Letter of authority or power of attorney executed for the sole purpose of authorising one or more of the joint holders of a Government security to give on behalf of the other or others of them, or any one or more of them, a discharge for interest payable on such security or on any renewed security issued in lieu thereof.

* * * * *

84. *Sanad* of jagir or other instrument conveying land granted to an individual by the Government otherwise than for a pecuniary consideration.

85. Instrument of exchange executed by a private person where land is given by him for public purposes in exchange for other land granted to him by the Government.

86. Transfer by endorsement of a mortgage of rates and taxes authorised by any Act for the time being in force in British India.

* * * * *

89. Agreement executed for service or for performance of work in any estate not less than ten acres in extent, whether held by one person, or by more persons than one as co-owners and whether in one or more blocks, and situated in British India (excluding Coorg and Assam), or in Mysore, which is being prepared for the production of, or actually produces, tea, coffee, rubber, pepper, cardamom or cinchona, where the advance given under such agreement does not exceed fifty rupees—Duty reduced to one anna.

* * * * *

92. Instrument of transfer of shares registered in a branch register in the United Kingdom under the provisions of section 41 of the Indian Companies Act, 1913 (VII of 1913), which has paid the stamp duty leviable thereon in accordance with the law for the time being in force in the United Kingdom.

* * * * *

96. Lease of a fishery granted by the Government in Assam.

* * * * *

98. Attested instrument evidencing an agreement relating to the hypothecation of moveable property where such hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan, or of an existing or future debt—Duty reduced to the amount chargeable on a bill-of-exchange under Article No. 13 (b) of Schedule I of the Stamp Act, 1899, for the amount secured if such loan or debt is repayable on demand or more than three months from the date of the instrument ; and to half that amount if such loan or debt is repayable not more than three months from the date of the instrument.

99. Unattested instrument evidencing an agreement relating to the hypothecation of moveable property where such hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan, or of an existing or future debt.

* * * * *

103. Instrument of transfer of Government Stock registered in the book debt account.

104. Instrument of release referred to in section 48 of the Indian Merchant Shipping Act, 1923 (XXI of 1923).

105. Decision or award of the Registrar of Co-operative Societies for the Central Provinces and the award of arbitrators in any dispute in which a co-operative society in British India is a party.

106. Receipt or bill of lading issued by the Commercial Carrying Company, Limited, for the fare for the conveyance of passengers or goods, or both, or receipts given to the said Company for the refund of an overcharge made in respect of such fare.

107. Receipt given for interest paid in British India on securities of the Mysore Darbar.

108. Agreement between an employer and a workman employed by or under him regarding the payment of compensation under the Workmen's Compensation Act, 1923 (VIII of 1923).

109. In the United Province and the provinces of Assam and Burma, a mortgage deed being a collateral or auxiliary or additional security or being by way of further assurance where the principal or primary security is duly stamped, in any case in which the sum secured is in excess of Rs. 20,000—Duty reduced to the amount of duty which would be chargeable under Article 40 (c) of the First Schedule to the Indian Stamp Act, 1899, if the sum secured were Rs. 20,000.

110. Mortgage deed being collateral or auxiliary or additional security or being by way of further assurance—Duty reduced to Rs. 20 in the Presidency of Bombay, to Rs. 15 in the Presidency of Madras or in the province of the Punjab and to Rs. 10 in the Presidency of Bengal, the Central Provinces and the Province of Bihar and Orissa provided that the duty paid on the principal or primary security exceeds the amount specified for that presidency or province.

111. Proxy empowering a person to vote at a meeting of creditors—Duty reduced to the rate chargeable on a proxy empowering a person to vote at any one meeting of members of an incorporated company.

112. Instrument cancelling a Will.

114. Indemnity bond executed in pursuance of paragraph 8 of Royal Air Force Instruction (India) No. 33 of 1935 by non-entitled person undertaking passenger flights in accordance with clause (iii) of paragraph 7 thereof.

* * * * *

116. Agreement or memorandum of agreement relating to the hire of a bicycle for a period of less than a week.

117. Instrument executed in the areas mentioned in the schedule hereto attached in respect of which the stamp duty with which it is chargeable under the stamp law for the time being in force in the said areas has been paid in accordance with the said law.

118. Instruments evidencing transfer of property between companies limited by shares as defined in the Indian Companies Act, 1913, in cases—

- (i) where at least 90 per cent. of the issued share capital of the transferee company is in the beneficial ownership of the transferor company, or
- (ii) where the transfer takes place between a parent company and a subsidiary company one of which is the beneficial owner of not less than 90 per cent. of the issued share capital of the other, or
- (iii) where the transfer takes place between two subsidiary companies of each of which not less than 90 per cent. of the share capital is in the beneficial ownership of a common parent company.

Provided that in each case a certificate is obtained by the parties from the officer appointed in this behalf by the local Government concerned that the conditions above prescribed are fulfilled.

119. Policies of insurance covering accidents on passengers travelling by air as exceeds one anna in each rupee of the amount of premium payable on the policy.

120. Reduces the duty on a bill of exchange made or drawn in and payable in British India where payable otherwise than on demand, but not more than one year after date or sight, to two annas for every one thousand rupees or part thereof of the amount of the bill.

121. Reduces the duty on a promissory note made or drawn in and payable in British India where payable otherwise than on demand, but not more than one year after date or sight, to two annas for every one thousand rupees or part thereof of the amount of the promissory note.

SCHEDULE

AREAS

1. Agency territories in Baluchistan.
2. The District of Abu.
3. The cantonments of Mhow, Neemuch, and Nowgong (including the Civil Lines) in the Central India Agency and Baroda.
4. The Indore Residency Bazars.
5. Railway lands within the limits of the Central India and Rajputana Agencies over which the Governor General in Council exercises jurisdiction.
6. The areas in the Hyderabad State in which the Governor General in Council exercises jurisdiction through the Resident at Hyderabad.
7. Berar.
8. The Civil and Military Station of Bangalore.
9. Railway lands in the Mysore State over which the Governor General in Council exercises jurisdiction.
10. Railway lands in the Baroda State and in States in the Political control of the Government of Bombay, over which jurisdiction has been ceded to the British Government and to which the provisions of the Indian Stamp Act, 1899, have been applied.
11. Railway lands in Jammu and Kashmir and in States in the Punjab over which the Governor General in Council exercises jurisdiction.

PART I

SECTION 2A

REMISSIONS AND REDUCTIONS OF STAMP DUTIES UNDER
OTHER ACTS*The Co-operative Societies Act (II of 1912)*

In exercise of the powers conferred by Section 28, Sub-section (2), of the Co-operative Societies Act (II of 1912), the Governor General in Council is pleased to remit the stamp duty with which under any law for the time being in force, instruments executed by or on behalf of any Co-operative Society for the time being registered under that Act, or instruments executed by an officer or member of any such society, and relating to the business of the Society are respectively chargeable.

(Government of India Notification No.683-F., dated the 28th December 1912).

Note.—The Local Government may at any time withdraw this privilege from any Society under Section 46 of the said Act.

[Assam Government letter No. 1089-F.(a), dated the 18th March 1935.]

PART I

SECTION 3

CONVERSION INTO FOREIGN CURRENCIES

*"C. No. 125.—Stamps 25, dated Simla, the 18th September 1925—Stamp.—In exercise of the power conferred by sub-section (2) of section 20 of the Indian Stamp Act, 1899 (II of 1899), and of all other powers in this behalf and in supersession of the notification of the Government of India in the Department of Commerce No. 348, dated the 13th January 1923, and of all notifications amending the same the Governor in Council is pleased to prescribe the following rates of exchange for the conversion of the currencies herein-after specified respectively into the currency of British India for the purposes of calculating *ad valorem* duty on instruments chargeable therewith:—*

Note.—The table below is corrected up to 1931. (Vide Government of India, Finance Department, Notification No. 8-stamps, dated the 7th November 1931). The figures are altered from time to time according to the rates of exchange.

Currency	Sum	Equivalent in currency of British India			
			1	2	3
					Rs. a. p.
British	£ 1 sterling ...		13 5 4	

PART I

SECTION 4

RULES FOR REGULATING THE SUPPLY AND SALE OF
STAMPS AND STAMPED PAPERS

No. 7335-M., dated 26th October 1908. (Amended up to date.)

In exercise of the powers conferred by section 74 of the Indian Stamp Act (II of 1899), and with the approval of the Governor General in Council the Lieutenant-Governor [of Eastern Bengal and Assam] is pleased to make the following rules 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 remunerations of such persons.

Kind of
Stamps.

According to the rules made by the Governor General in Council under the Act, there are two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, namely:—

(i) Impressed stamps, including—

(a) labels affixed and impressed by the proper officer;

(b) stamps embossed or engraved on stamped paper.

(ii) Adhesive stamps.

Stamps of class (i) (a) can be obtained on application and submission before execution of any instrument liable to such stamp duty to the Assistant Superintendent of Stamps, Assam, Shillong, who has been gazetted under the Indian Stamp Rules, 1925 as the "Proper Officer" for this purpose. Stamps of class (i) (b) and class (ii) shall be sold to the public through *ex-officio* or licensed vendors in the manner hereinafter prescribed.

Note.—There is only one stamping machine in the province and it is situated at Shillong. The Personal Assistant to the Director of Land Records has been appointed *ex-officio* Assistant Superintendent of Stamps for Assam and is in charge of the machine. He has been gazetted as the "proper officer" in Assam under the Indian Stamp Rules for stamping documents liable to such duty.

*Ex-officio
vendors.*

2. The treasurer at the headquarters of a district and at subdivisions the Nazir or any other subordinate officer entrusted with the custody and sale of stamps on behalf of Government shall be *ex-officio* vendor and

shall sell, on behalf of Government, stamps embossed or engraved on stamped paper, and adhesive stamps to licensed vendors and to the public on application.

3. Such persons as may be licensed by the District Officers or subject to the control of District Officers by Subdivisional Officers shall be licensed vendors, and shall sell to the public such stamps as are indicated in their licenses.

4. Every license shall specify the name of the licensee, the description of stamps which may be sold under the license, the place of vend, and such other matters as may be necessary, and shall be signed by the authority granting it. The license shall be revocable at any time by the authority who grants it.

Note.—For the form of license see Appendix.

5. Every licensed vendor shall keep such stock of stamps including half-anna, one anna, two-annas and four annas Revenue stamps as the District Officer may consider sufficient to meet the demand likely to be made upon the licensed vendor for their supply.

6. Subject to Rule 7, every licensed vendor, who purchases from Government, by payment of ready money, stamps embossed or engraved on stamped paper and adhesive stamps, shall receive the same at a discount at the following rates:—

Non-judicial stamps	At places where stamps are sold by Government		At other places	
	Per cent.	Per rupee	Per cent.	Per rupee
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Adhesive—				
Four-annas, two-annas, one-anna and half-anna Revenue stamps.	4 11 0	0 0 9	6 4 0	0 1 0
Other Stamps not exceeding in value 8 annas each.	4 11 0	0 0 9	6 4 0	0 1 0
Ditto exceeding 8 annas, but not exceeding Rs. 5 each.	2 9 8	0 0 5	3 2 0	0 0 6
Ditto exceeding Rs. 5, but not exceeding Rs. 50 each.	1 9 0	0 0 3	1 9 0	0 0 3
Impressed—				
Hundi stamps	3 2 0	0 0 6	4 11 0	0 0 9
Impressed stamped paper ..				

When
discount
allowed.

no

is 7. 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. Discount shall not be allowed if the total value of the quantity of stamps purchased at one time does not amount to Rs.25 or upwards.

No *ex-officio*
vendor to get
discount.

8. Licensed vendors alone are allowed discount on the purchase of stamps. No *ex-officio* vendor is allowed to purchase stamps at a discount for sale on his own account to the public.

No licensed
vendor to get
supply on stamps
on credit.

9. No licensed vendors shall be supplied with stamps on credit without the special sanction of the Chief Controlling Revenue-authority.

Licensed
vendor to exhibit sign-
board, li-
cens, etc.

10. Every licensed vendor shall at all times have stuck up in a conspicuous place outside the place of vend a signboard bearing the name of the vendor, with the words "*Licensed vendor of stamps*" in the vernacular language of the district. He shall also have in the place of vend his license and the Acts of the Legislature, and their schedules referring to the stamps sold by him, together with these rules in English, placed so that they can readily be seen and read by purchasers.

Particulars to
be entered on
back of im-
pressed sheets
and in regis-
ter kept for
the purpose.

11. Every *ex-officio* or licensed vendor shall write at the time of sale in the vernacular language of the district, on the back of every stamp, embossed or engraved on stamped paper which he sells, a serial number, the date of sale, the name and residence of the purchaser and the value of the stamp in full, in words, and shall affix his signature to the endorsement. At the same time he shall make corresponding entries in a register in the following form:—

Serial No.	Date of sale	Value of stamp	Name and residence of purchaser	Remarks
		Rs. a. p.		

No vendor shall knowingly make a false endorsement on the stamp, embossed or engraved on stamped paper sold, or a false entry in his register.

Every licensed vendor shall submit this register once in every three months to the District Officer, or in a subdivision to the Subdivisional Officer, for examination and signature, and shall make it over at the end of the year to the District or Subdivisional Officer, as the case may be, for deposit in the office.

Licensed vendor to submit the register quarterly for examination, and to make it over for deposit at the end of the year.

12. No *ex-officio* or licensed vendor shall take for any stamp more than the value denoted thereon and every such 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 District Officer.

Overcharge strictly prohibited.

13. No licensed vendor shall sell any stamps, the use of which has been ordered by competent authority to be sold. Stamps not to be sold.

14. A licensed vendor shall obtain all the supplies of stamps which he is authorised to sell only from the treasury of the district for which his license was granted, and shall sell stamps only at the place mentioned in his license.

Licensed vendor to obtain supply from treasury only.

15. Every *ex-officio* vendor shall keep and render such accounts as may be prescribed from time to time by the Chief Controlling Revenue-authority.

Ex-officio vendor to keep accounts.

16. Every licensed vendor shall allow the District Officer or any officer duly authorised by him or by the Local Government, and within the compounds belonging to Civil Courts, the District Judge or any gazetted officer duly authorised by him, at any time to inspect his accounts and registers, and to examine the store of stamps in his possession.

Accounts, etc., to be open to inspection.

17. Every licensed vendor shall at any time, on the demand of the District Officer or other officer duly authorised by the Local Government, deliver up all stamps, or any class of stamps, remaining in his possession.

Stamps may be recalled by the District Officer.

18. In the following cases the full value of the stamps returned into store, less one anna in the rupee, shall be paid to the stamp vendors :—

R fund value of stamps.

(a) When the vendor resigns his license.

(b) When the license is revoked for any fault of the licensee.

(c) When the stamps are returned on the death of the vendor.

(d) When the stamps are returned on the application of the vendor for leave to restore any stamps.

In the following cases the full value of the stamps returned into store, less only the discount allowed on their sale, shall be paid to licensed vendors:—

(a) When stamps are returned on the expiry of the license.

(b) When they are recalled by Government.

(c) When the license is revoked for any cause other than the fault of the licensee.

Stamps may be exchanged. Provided that a licensed vendor may exchange unsold stamps, which are fit for use, for other stamps of the same kind.

Number of stamps for single instrument.

19. When a stamp, embossed or engraved on stamped paper, is required for any instrument, a single sheet is to be issued of the required value. But if a single stamp of the required value is not available, the number of sheets issued in order to indicate the payment of duty is not to exceed the smallest number which can be furnished so as to make up the required amount.

Certificate to be given by a licensed stamp vendor when a single stamp is not available.

20. When the application for the required stamp is made to a licensed stamp vendor, and such vendor is unable to furnish a single stamp of the required value, he shall give a certificate to that effect to the purchaser. In making the certificate such vendor must declare truly (1) that he is unable to furnish a single stamp of the required amount, and (2) that the number of sheets furnished is the smallest number that he can supply, so as to make up the required amount.

[The following form is prescribed for the vendor's certificate mentioned in this rule:—

CERTIFIED that a single stamp of the value of Rs. required for this document is not available and that the smallest number of stamps which I can furnish so as to make up the required amount is as follows:—]

21. No such certificate is required under similar No. such circumstances from an official stamp vendor, but the certificate required issuing, whenever practicable, a single stamp of the from an required value, or, when from any reason this is not possible, of furnishing the smallest total number of stamps which may make up the required value.

22. Nothing in the above rules shall be held to restrict the sale of one anna or half-anna adhesive stamps.

¹23. The Local Government may, at any time, by general or special order vary the provisions of rules 19, 20 and 21 above.

24. Notwithstanding anything contained in the foregoing rules half-anna, one anna, two annas and fours annas revenue stamps shall also be sold to the public by officers in charge of Post Offices (including Sub and Branch Post Offices) as official stamp vendors from the stock of such stamps maintained in such offices.

¹ Inserted by Assam Government Notification No. 4600-F(a), dated 27th October 1930.

PART I.

SECTION 5.

VARIOUS NOTIFICATIONS UNDER THE STAMP ACT.

(i) POWERS

(1) *No. 21, dated the 9th July 1879.*—Under clause 8, section 3 of the Indian Stamp Act, 1879 [now cl. 9 (b) of section 2 of the Act of 1899] it is hereby notified that the Chief Commissioner is pleased to invest all Subdivisional Officers and the Senior Extra Assistant Commissioners at the sadr stations of districts with the powers of a Collector for the purpose of denoting upon one instrument, by endorsement, the payment of duty in respect of another instrument, as provided for in section 15 [now 16] of the Act. The Rural Sub-Registrars are also hereby authorised to exercise similar powers in respect of instruments presented to them for registration.

(2) *No. 1, dated the 6th January 1880.*—In continuation of the Notification No. 21, dated the 9th July 1879, published in the *Assam Gazette* of the 12th idem, Part I, page 436, and under clause 8, section 3 of the Indian Stamp Act, 1879, it is hereby notified that the Chief Commissioner is pleased to invest all officers holding temporary charge of Sub-Registry offices at subdivisions during the absence of the Subdivisional Officers, with the powers of a Collector, for the purpose of denoting upon one instrument, by endorsement, the payment of duty in respect of another instrument, as provided for in section 15 [now 16] of the said Act.

(3) *No. 36, dated the 29th December 1880.*—In continuation of the Notification No. 1, dated the 6th January 1880, published in the *Assam Gazette* of the 10th idem, Part I, page 15, and under clause 8, section 3 of the Indian Stamp Act, 1879, it is hereby notified that the Chief Commissioner has been pleased to vest Special Sub-Registrars at district headquarters with the powers of a Collector for the purpose of denoting upon one instrument by endorsement the payment of duty in respect of another instrument, as provided for in section 15 [now 16] of the said Act.

(4) *No. 6, dated the 24th March 1882.*—In exercise of the powers vested in him by section 3 of Act I of 1879 (The Indian Stamp Act), the Chief Commissioner has been pleased to invest with the powers of a Collector under the said Act, the officer holding charge for the time being of the subdivision of Habiganj.

(5) *No. 7, dated the 29th September 1882.*—In exercise of the powers vested in him by section 3 of Act I of 1879 (The Indian Stamp Act), the Chief Commissioner has been pleased to invest with the powers of a Collector under the said Act, the officer holding charge for the time being of the subdivisions of Karimganj, Sunamganj and South Sylhet.

(6) *No. 3560-F., dated the 1st June 1916.*—In exercise of the powers vested in him by section 2, clause (8), of the Indian Stamp Act, II of 1899, the Chief Commissioner is pleased to appoint the Superintendent of Stamps, Assam, to be the Chief Controlling Revenue-authority in Assam.

(7) *No. 2448½-F. (A), dated the 13th July 1931.*—In exercise of the powers conferred by section 2(9) (b) of the Indian Stamp Act, 1899, as amended up to date, the Governor in Council is pleased to authorise all Sub-divisional Officers in Assam to exercise the powers of a Collector for the purpose of making allowances for spoiled or misused stamps under Chapter V of the Indian Stamp Act, 1899.

(ii) *Extension of the Stamp Act to the Hill Districts.*

No. 1541-F. (a), dated the 10th April 1930 as amended by No. 2962-F. (a) of 29th July 1930.—In exercise of the powers conferred by sections 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874) and in modification of the Notifications No. 992-J., dated the 13th September 1897, No. 503-J., dated the 19th February 1903 and No. 4949-J., dated the 12th November 1904, the Governor in Council is pleased to extend the Indian Stamp Act, 1899 (II of 1899), * * * as amended, to the district of the Khasi and Jaintia Hills, the Garo Hills, the Lushai Hills and the Naga Hills and the North Cachar subdivision of the Cachar district, the Mikir Hill Tracts in the Sibsagar and Nowgong districts and the Lakhimpur frontier tract.

Provided firstly that the said Acts shall not apply to any persons being natives of the said areas who are assessed to house-tax instead of land revenue.

Provided secondly that notwithstanding anything in the first proviso court and stamp fees shall be paid—

- (1) in all civil and criminal cases before the British courts except those before sardars, dolois, and other chief village authorities in the Khasi and Jaintia Hills district ;
- (2) on all miscellaneous petitions filed before a British court in the Khasi and Jaintia Hills district ;
- (3) by all parties who employ pleaders or mukhtars in civil or criminal cases in any of the aforesaid tracts ;
- (4) on all transactions between a native of the Khasi and Jaintia Hills district and a person who is not a native of the district ;
- (5) on all documents executed at Cherrapunji, Sohbar and Nongjiri in connection with the working of the lime, coal and other mineral products in those localities ;
- (6) by all inhabitants of the Dimapur mauza in the Naga Hills district ;
- (7) on all money suits arising in the Angami Naga country ; and
- (8) on all money suits arising in the Garo Hills.

NOTE.—The Khasi and Jaintia Hills mentioned in the above notification refers, of course, only to the British portion of the district. The Indian Stamp Act is not in force in the territories of the semi-independent Siems and Sardars.

PART I
SECTION 6

MISCELLANEOUS EXECUTIVE INSTRUCTIONS RELATING TO
THE STAMP ACT

A.—Offences, Prosecutions and Rewards

1. With reference to the provisions contained in section 70 of the Indian Stamp Act, II of 1899, District Officers are authorised by the Chief Controlling Revenue-authority to withdraw any prosecution instituted by them in respect of an offence under the stamp law, and to compound such offence, if they are of opinion that there is sufficient and reasonable cause for so doing. Compounding or withdrawal of prosecution by District Officers.
2. If in cases of prosecutions instituted under the stamp law the fines inflicted by the Criminal Courts be of smaller amount than the penalty provided under the Indian Stamp Act, or than had been imposed by the Collector, the Revenue Officers should bring to the notice of Criminal Courts trying such cases the amount of penalty in each case provided by the Stamp Act, and the impolicy of imposing a fine which is less than that provided under the Act. Inadequate fines to be brought to the notice of Criminal Courts.
3. District Officers, when refusing to sanction prosecutions under the Stamp Act, must record their reasons for coming to this decision. Reasons for refusal to sanction prosecution to be recorded. Conducting of Criminal prosecutions.
4. It is the duty of the Stamp Officer to see that criminal prosecutions ordered by the Collector are properly conducted before the Court which tries such cases. Whenever necessary the Court impounding a document should be referred to as regards the evidence or information on which it acted. Conducting of Criminal prosecutions.
5. All cases of forgery or fraudulent use of any description of stamps, whether general or judicial, should be immediately reported through the Commissioner to the Superintendent of Stamps, Assam. Full particulars as to the nature of the forgery or fraud should be given, together with specimens if possible. The mere ordinary cases of the fraudulent use of postage labels, such, for instance, as the use a second time of an obliterated label, need not be specially reported, unless there is some peculiarity about the case which makes it important. Stamp frauds to be at once reported.

Doubtful
stamps to be
sent to the
Superinten-
dent of
Stamps.

Power of the
Collector to
grant re-
wards.

6. When a Collector is unable to decide the genuineness of a stamp brought before him, he should send it to the Superintendent of Stamps, Assam, direct.

7. For information given regarding any evasion of the stamp law, the Collector may, if he thinks fit, grant rewards not exceeding, in any one case, the amount of the fine levied from the offender, or the sum paid in composition of an offence, up to a maximum of Rs.50. When a larger reward than Rs.50 is deemed necessary, and in cases in which a conviction has not been obtained or the fine levied or in which a prosecution has not been undertaken, an application should be made to Government. The reward should not be paid out of the fine levied from the offender, but the fine must be credited to "Administration of Justice" and the reward debited to "Stamps".

NOTE.—See also clause (12) of item 24 at page 47 of the Assam Contingency Manual (1939 Edition).

B.—Refunds and Renewals under Chapter V of the Stamp Act

Periods with-
in which
application
for relief to
be made.

8. Under the provisions of section 50, sub-section (1), of the Stamp Act, the application for relief in the cases mentioned in section 49, clause (d) (5), should be made within two months from the date of the instrument. Commissioners of Divisions have, however, been authorised by Government (Government order No.2611-F., dated the 26th March 1908) to extend that period to four months.

Periods
within which
application
for refunds
or renewals
to be made.

9. Under the provisions of section 50, sub-sections (2) and (3), and sections 52 and 54 the Collector can only grant refunds or renewals in respect of non-judicial stamps on application being made to him within six months from the date of the different contingencies contemplated therein. Commissioners are, however, authorised to allow refunds or renewals of spoiled or useless non-judicial stamps, or the repurchase of stamps not required, provided that the application for renewal or refund be made within two years from the date of the same contingencies. District Officers are also authorised to allow refunds or renewals in cases in which the application for refund or renewal is similarly made within one year.

10. All Subdivisional Officers in Assam have been empowered as Collectors for the purpose of making allowances for spoiled and misused stamps under Chapter V of the Indian Stamp Act.

Procedure as regards allowances for spoiled stamps.

In making allowances for such stamps the procedure and rules laid down for the refund or renewal of court-fee stamps should be followed, *mutatis mutandis*: See Part II, section 1, rules 35-46 and section 5E., rule 14(vi).

The printed forms upon which applications for allowances are to be made and the register of applications shall be similar to those prescribed for applications for renewal or refund of court-fee stamps.

11. On the application of a stamp vendor the District Officer may sanction the issue of fresh stamps of equal value in the place of spoilt stamps of all kinds provided he is satisfied (1) that the stamps are spoilt and unsaleable and (2) that they were not rendered unsaleable by any negligence on the part of the vendor. No refund or renewal can be granted in respect of stamps wholly destroyed.

District Officer may issue fresh stamps of equal value in place of spoilt stamp application by a stamp vendor.

12. When a refund or renewal is granted the sanctioning authority shall then and there punch and effectively destroy the stamps in question, and shall attach a certificate to that effect to the order of refund or to the order sanctioning renewal. The destruction shall be by burning and shall be carried out in the presence of the sanctioning authority.

Cancelled stamps to be punched and destroyed.

13. All unserviceable and spoilt stamps in the treasuries and sub-treasuries in Assam, which are the property of the Government of Assam shall be destroyed by fire in the presence of the Deputy Commissioner. This duty must be carried out personally by the Deputy Commissioner and cannot be delegated. In case of stamps that have been issued from treasuries and in respect of which claims for refund have been admitted subsequently, no entry is required to be made in the *plus and minus* memorandum, but the certificate of destruction by the authority sanctioning the refund shall be furnished on the voucher itself.

Unserviceable and spoilt stamps to be destroyed.

C.—Miscellaneous

Mode of
writing up
register of
stamp cases.

14. When an instrument is impounded by the Collector under section 33 of Act II of 1899, or is sent to him under the second clause of section 38, columns 1 to 7 and column 10 of the register of stamp cases (see Appendix) are to be at once filled in. The entries in the remaining columns should be made subsequently as the case proceeds, columns 8, 9 and 11 being filled in when orders are passed by the Collector, and columns 12 to 15 when the penalty is realised and the instrument returned to its owner.

Certificate
stamps.

15. The certificates of pleaders, muktears and Revenue Agents are not liable to stamp duty under Act II of 1899 and section 69 is not, therefore, applicable to them. They are liable to stamp duty under section 28 of the Legal Practitioners' Act (XVIII) of 1879, and the stamp paper on which the certificate form is printed is a special kind of stamp and not a stamp within the meaning of Act II of 1899 (Government Order No.671-T.F., dated the 10th June 1902).

PART I.—STAMPS

SECTION 7

SELECTED RULINGS OF HIGH COURTS RELATING TO THE
INDIAN STAMP ACT

Section 2(2)—“Bill of Exchange”

A demand draft was addressed by the Imperial Bank of India, Calcutta, as drawer, to the Imperial Bank of India, Lahore, as the drawee and was made payable on demand to a third party (namely, the Commercial Syndicate, Ltd.) or order. The question was, whether the instrument was dutiable under the Stamp Act, *Held*, that it was exempt from stamp duty under the Stamp Act as amended by the Finance Act, V of 1927. The instrument was a bill-of-exchange within the definition in section 5, Negotiable Instruments Act, and therefore a bill-of-exchange under the first part of section 2, sub-section (2) of the Indian Stamp Act which defines bills-of-exchange to be bills as defined in the Negotiable Instruments Act. It was also a bill-of-exchange under the more general language of the second part of the said sub-section as a document entitling one person to payment by another of a sum of money. And it could not be treated as a promissory note and charged to duty as such simply because of anything contained in section 17 of the Negotiable Instruments Act. *In re Imperial Bank of India, Calcutta*; 1928, 32 C. W. N. 1015.

Section 2(5)—“Bond”

1. By a document which purported to be a promissory note, attested by three witnesses and written on an impressed label of two annas, A promised to pay B before a certain date Rs. 135—*Held*, that the document was a bond and must be treated as unstamped for the purposes of section 34 (now 35), of the Indian Stamp Act, 1879.

Reference under section 46 of the Stamp Act, 8 Mad.,
87.

2. As instrument contained an unconditional promise to pay, on demand, a sum of Rs. 16. It was not made "payable to order or bearer", and it bore, besides the signature of the party executing it, that of the writer, apparently as an attesting witness. It was held that the document was a bond "not being payable to bearer or order, and the signature of the obligor being attested by a witness," Ref. (10 Mad. 158).

3. The defendant signed an agreement in England with a Railway Company whereby he contracted to serve the Company exclusively for four years in India under a penalty of £ 100. The defendant, having come to India at the expense of the Company and served it for two years, left its service for that of another employer, alleging that he had not been fairly treated by a locomotive superintendent,—*Held*, that the instrument executed by the defendant was an agreement merely and did not require to be stamped as a bond.

Madras Railway Co. v. R. 14 Mad., 18

4. R executed a document, by which he promised to pay on demand Rs.10-12-0 with interest to S. R. The writer of the document and some other signed the document as witnesses—*Held*, that the document was a bond and liable to stamp duty as such. Reference under Stamp Act, section 49.

13 Mad., 147

5. A *khata* in the name of a debtor acknowledging the receipt of the amount advanced, and bearing the signature of the writer of the *khata* as writer of it merely—*Held* to be an acknowledgment only, and not a bond, within the meaning of section 3, sub section 4 (b), of the Stamp Act (I of 1879) there being nothing to lead to the supposition that the countersigner signed as an attesting witness. Dulabh Vanmali v. Rehman Jamal.

14 Bom., 511

6. A document by which the executant promised to pay to the person named therein a certain sum of money on a certain date with interest is not "attested by a witness" within the meaning of clause (b) of

sub-section 4 of section 3 of Act I, 1879, merely by reason of its bearing on the face of it a statement by the writer that the document was correct and written by his pen.

Reference under Stamp Act, section 49.

17 All., 211.

7. Documents which are in form acknowledgments only are not converted into bonds, as defined in section 3, sub-section 4 (b), of the Stamp Act (I of 1879), merely because they contain memoranda as to the rate of interest at which the loan is made and are attested by witnesses. No document can be a bond within the above section, unless it is one which by itself creates an obligation to pay the money. *Hira Lal Sircar v. Queen-Empress.*

22 Cal., 757.

8. Where a document by which the executant promised to pay to the person named therein a certain sum of money with interest, on demand, bore the signature of the scribe of the document as its writer and was stamped with an adhesive stamp of one anna only: *Held*, that under section 2, clause (5) (b) the words "attested by a witness" meant attestation on the face of the instrument, and that therefore the document in question was not a bond but a promissory note and properly stamped as such. "The decision in *Jaganath Khan v. Bajrung Das Agarwalla* (1920, 48 Cal., 61) does not hold that the person who signs as writer of an instrument must be regarded as an attesting witness". (1922, 4th Cal. 729, S. C. 26 C. W. N. 585, S. C. 67 Indian Cases 780).

9. The defendant passed to the plaintiff a document to this effect: "I have this day taken from you in cash Rs. 48 (forty-eight). I have received this amount. I shall repay this money without taking any objection, when you should demand it." The document was attested by two witnesses. It bore a one-anna adhesive stamp.

Held, on the construction of the document, that it was a bond within the meaning of section 3 (5) (b) of the Indian Stamp Act (II of 1899); since the document was attested and was not payable to order or

bearer, and the executant obliged himself to pay the money to another. *Venku Ram Chandra Shat v. Sitaram Pandurang.*

29, Bom., 82.

10. The transactions comprised in a document consisted of a transfer of a mortgage secured on a cotton mill and an agreement that the transferee should lend money at the request of the transferer to the mortgaged mill for making improvements, additions and repairs or the working of the mill.

A question having arisen as to what was the proper stamp duty payable on the document.

Held, that the document was only liable to stamp duty as a transfer of mortgage and as an agreement, *i.e.*, to Rs. 5-8-0 in all.

An agreement to lend money does not create an obligation to pay money within clause (5) (b) of section 2 of the Stamp Act (II of 1899).

An agreement to lend money to a partnership is not capable of specific performance and it creates no debt although the breach of it may give rise to a claim for damages.

Hilwardhak Cotton Mills Co., v. Sorabji.

33, Bom., 426.

11. As to the question whether a covenant containing a penal clause constitutes a

Treatment of bonds with penal clauses. "bond" under the first clause of the definition given in section 2, sub-section (5) of the Stamp Act, and also as to whether a bond with a penalty for breach attached should be stamped only on the principal amount secured or on the whole amount including the penalty, there has been considerable conflict of opinion. Thus, an instrument whereby the monopoly of the right to manufacture and sells spirits within a certain area was farmed for a specific period, which contained a clause whereby the farmer bound himself, in the event of his breaking any of the conditions of the instrument to pay a penalty of Rs. 5,000, was held by a majority of a Full Bench of the Allahabad High Court (four judges out of five, Stuart, C. J. dissenting) to be chargeable with a bond stamp on Rs. 5,000 ; (1880, I. L. R. 2 All. 654) ; the

learned Chief Justice holding, *per contra*, that for the purposes of the Stamp Act, the penal clause in the instrument should not be regarded separately as a "bond" but simply as one of the several clauses making up the entire agreement and that the instrument was chargeable with a stamp duty of 8 annas only under article 5 (c) of the Act of 1879. The Chief Justice's view was approved and followed by the Calcutta High Court (*Gisborne and Company v. Subal Bowri*, 1881, I. L. R. 8 Cal. 284), where it was held by Garth, C. J. and Mc Donnell, J. that an instrument containing a covenant to do a particular act, the breach of which is to be compensated in damages, is not a "bond" within the meaning of the Stamp Act, and requires a duty of 8 annas only. The same view was adopted in Financial Commissioner's Circular No. 35, dated the 13th August 1883 (Punjab). And it is to be added that Mr. Justice Straight, one of the four judges who held the contrary opinion in the Allahabad case above cited (2 All. 654), subsequently on re-consideration, altered his opinion and concurred in the Calcutta ruling; (*see in re Gajraj Singh*, 1884, I. L. R. 9 All. 585, F. B.)

Section 2 (10)—"Conveyance"

1. A deed by which a bank and its liquidators transferred to a new bank all its property, business and good will with the benefit of all contracts and engagements, upon certain terms contained a provision by which the old bank transferred to the new its immovable property in Bombay comprised of its business premises for Rs. 1,50,000. On the question being raised whether this constituted a conveyance, or was merely a transfer of property from one company to another it was held to be a conveyance or in other words a sale of such property at a price of Rs. 1,50,000. The circumstance that the transaction was part of a larger consideration for the agreement could not effect the character of the instrument. (Ref. 20 Bom. 432.)

2. A hire-purchase agreement not being an agreement to purchase but simply an agreement to hire the machinery in question with an option on the part of the hirer to purchase, comes within the meaning of Article 5 (c), and is, therefore, liable to a stamp duty

of eight annas. The instrument does not come within the term "conveyance" as defined in section 2, clause (10) and is not liable to be stamped as such (that is, under Article 23): Linotype Limited and Windsor Press (1916, 44 Cal. 72 20 C. W. N. 1252).

Section 2 (II)—"Duly Stamped"

1. The omission of a stamp vendor to endorse on a stamped paper the particulars required by rule (9) of the revised rules published under sections 55 and 57 of the Indian Stamp Act, 1879, by the Government of Madras, with the approval of the Governor General in Council does not render a document "not duly stamped", within the meaning of section 3 (10) of the Stamp Act, 1879.

Reference under Stamp Act, section 46.

11 Mad., 377.

2. The absence of the certificate required by rule 5 (b) of the rules, dated the 3rd March 1882, issued by the Governor General in Council, under sections 9, 15, 17, 32, 51 and 56 of the Stamp Act (I of 1879), does not make the document in question not "duly stamped" within the intention of the Stamp Act.

Queen Empress *v.* Trailakya Nath Baral.

I. L. R., 18th Cal., 39.

Section 2 (12)—"Executed"

1. "Signature" need not necessarily be by writing the name. A payment endorsed on a bond by direction of the obligor who cannot write but affixes his mark is a valid execution: Bheemangowda *v.* Ernah (7 Mad. H. C. R. 358). Nor is it necessary that a signature should be at the foot of a document, which is the usually accepted method. It may be affixed to any other part, provided it be intended to operate as an acknowledgment by the party that it is his instrument.

Mathura Das *v.* Babu Lal. (1 All., 683).

In view of the express provision in section 2, clause (12) of the Stamp Act, an unsigned Burmese instrument made since the coming into force of the Indian Stamp Act, 1899, cannot be treated as "executed" for the purposes of the Stamp Law: *Maung Po Din v. Maung P. Nyein* (1921, 66 Indian Cases 360) (Upper Burma): *Re Chet Po* [1913, 22 Indian Cases 75 (Lower Burma), F. B.], *Ma Saw v. Maung Ba*, 1927, 5 Ran., 650.

Section 2(15)—"Instrument of partition"

1. A note that certain property had, on partition, been allotted for the maintenance of parents, and a memorandum of the particulars of property which had, on partition, fallen to the share of one of the brothers, is not a partition deed, for "it does not itself operate to release the joint interests of the other parties to the partition and create a sole interest in the person whose share it records". Ref. (7 Mad., 385).

2. The co-sharers in an undivided Hindu family having under a written instrument agreed to divide the family property according to the terms of the award passed by the arbitrators. *Held*, that the instrument was an agreement to divide the property in severalty, and was, therefore, a partition deed within the definition in sub-section (11) of section 3 of the General Stamp Act (I of 1879).

In re VasANJI Haribhai.

I. L. R., 15 Bom., 677.

3. Three out of seven brothers, constituting an undivided Hindu family, executed documents whereby each acknowledged the receipt of certain property made over to him, "a division of family property having been effected" and acknowledged himself liable for one-seventh of the debts of the family. One of the documents contained a clause to the effect that the executant had no further claim on property of the

family. *Held*, that the documents should be stamped as instruments of partition, each member paying according to the share taken by him under the partition.

Reference under Stamp Act, section 46.

I. L. R., 15 Mad., 164.

4. Two documents purported to be releases of certain movable property, by which two persons relinquished their rights in a portion of the property each in favour of the other. As a matter of fact, one of them was not legally entitled, so that the release of the other was actually a gift: it was held that the parties purported to be co-owners of the property, and in that capacity agreed to divide the property in severalty. The documents were therefore really instruments of partition, and the arrangement fell within the definition of an "instrument of partition".

12 Mad., 198.

5. An award by arbitrators directing partition of property if signed by the parties interested by way of assent to the award, becomes thereby an instrument of partition, and should be stamped accordingly.

Amarsi v. Dayal.

I. L. R., 9 Bom., 50.

6. An award by arbitrators began by saying, "We decide as below. The parties should act accordingly." It went on, the defendant "should take into his possession as below after passing a legal release." It added other directions with regard to the action of the defendant and provided "in connection with whatever is settled to be given to the 'defendant' and to be taken by him, we direct that the 'defendant' should take into his possession the properties and receive and pay money stated above after passing a release on sufficient stamp and getting it registered." *Held*, that the award came within the meaning of the words "an award by

an arbitrator directing a partition" within the meaning of section 2, clause 15, of Indian Stamp Act (II of 1899).

Kalidas v. Tribhuvandas (1906). 31, Bom., 68.

7. Four undivided brothers made four lists of family property. Each lists was signed by three brothers and not by the fourth, who retained it. A question having arisen whether the lists constituted a partition between the brothers and required to be stamped as such under the Stamp Act (II of 1899). *Held*, that the four documents formed, when read together, an instrument of partition within the meaning of section 2, clause 15, of the Stamp Act (II of 1899). Each document formed the title of the brother retaining it against the other three brothers with regard to the property, which came to his share when the partition was effected.

Ganpart v. Supdu (1908).

32, Bom., 509.

Section 2(16).—“Lease”

1. The test for determining whether a transaction is a lease or a license is to see whether sole and exclusive occupation is given to the grantee, so as to amount to a transfer of an interest in immovable property to the grantee: *Board of Revenue v. South Indian Railway Co., Ltd.* (1924, 48 Mad., 368).

2. A tabular statement to which the tenants affixed their signatures and which contains the year and date, the name of the tenant, the number of the holding and the amount of the rent for the several years, disbursements and balance due, is not a lease and does not require to be stamped or registered.

Ganga Prasad and others v. Gogun Sing I.L.R., 3 Cal., 322 and Narain Kumary v. Ram Krishna Dass.

Section 2(17)—“Mortgage deed”

1. An agreement entered into by the Secretary of State and a salt contractor recited that the contractor had deposited certain promissory notes to secure the due fulfilment of the contract and provided that the promissory notes should be returned on the due fulfilment of the contract. *Held*, that the agreement was a mortgage as defined by the Stamp Act.

Reference under the Stamp Act, section 46.

11, Mad., 39.

2. Where a document purported to be a deed of mortgage whereby the executant made over possession of certain lands to his creditor for nine years in liquidation of a debt, stipulating for a yearly payment of Rs.35 it was held to be in fact a sale of a term or lease for nine years with a reserved rent of Rs.35 in consideration of the amount of the debt and to be chargeable as a lease with a premium : Ref. 7 (Mad., 203).

3. Where a zemindar leased certain land in a village to cultivators in consideration of a rent of Rs.365 per annum in cash and of certain cart loads of straw and of grass for eight years as zemindari dues and the lessees by the deed hypothecated certain other property for the purpose of securing the payment of the rent and for the performance of the rest of the engagement the document which was stamped as a lease was held to be a mortgage-deed, *i.e.*, an instrument by which for the purpose of securing a future debt that is the rent to be paid and for securing the performance of an engagement that is the engagement to pay the rent and to deliver the other articles yearly the lessees created in favour of the lessor a right over specified property. Ref. (17 All., 55).

4. Where an instrument described as a lease was executed in consideration of Rs.120 and provided that the party paying it should remain in possession of certain land for twelve years it was held to be a

usufructuary mortgage under which the rents and profits were estimated to satisfy both the principal and interest.

Ref. (21, Mad., 358).

5. A contract containing a stipulation that a District Engineer should retain 10 per cent. of the value of work done by a contractor to cover compensation for any default on his part and as security for proper performance of the contract is not a mortgage of the 10 per cent. of which present payment is postponed, for the property remains in the Government till the sum is paid to the contractor, but is an agreement.

Ref. (7 Mad., 209).

Section 2(19)—“ Policy of Insurance ”

1. An entrance certificate granted under the rules of the Uncovenanted Service Family Pension Fund is a life policy within section 3 (5) of the Stamp Act for an amount not exceeding Rs.1,000, and is therefore chargeable with a duty of 6 annas. Such an instrument is not within the scope of section 25 (c) of the Stamp Act.

Reference under Stamp Act, 1879, section 46.

19 Cal., 499.

2. A certificate of membership of a Provident Society purporting to effect an insurance on the life of a person in favour of another named therein is a policy of life insurance, and chargeable under Article 47D.

Re Himat Provident Society. 25 Bom., 376.

Section 2(20)—“ Policy of Sea-Insurance ”

A “ contract ” for sea insurance of the character described in the explanatory clause of sub-section (20) would not be within the definition of “ policy of sea-insurance ” or “ sea-policy ”, nor chargeable as such under Art. 47A unless it in fact amounted to a sea policy within the meaning of section 7. Consequently the bills-of-lading ordinarily used by the Inland Navigation Companies and commonly known as the “ red ”

and "blue bills-of-lading" whereby for an additional freight the Companies insure shippers against loss are not be so chargeable. A distinction must therefore be drawn between "contracts of sea-insurance" and "policies of sea-insurance". In the matter of a Reference (30 Cal., 565).

Section 2(21)—"Power of Attorney"

1. If a pleader conducts a case under a Vakalat-nama which authorizes him to receive money and documents in the course of the case no general or special power-of-attorney is necessary to enable him to receive such money or documents.

3 Cal., 757.

2. An instrument authorizing a person to receive on behalf of another such sums as should become due in the course of the execution of a certain work is a power-of-attorney.

Bhagvandas Kishordas v. Abdul Husien Mohamed Ali.

3 Bom., 49.

3. An instrument authorising one person to receive payment of money on behalf of thirty-six persons out of a fund in which they are jointly interested is a power-of-attorney.

Reference (I.L.R., 9 Mad., 358). And see Reference (I.L.R., 15 Mad., 386) : and *Allen v. Morrison* (8 B. & C., 565).

4. A sunnud which authorizes a gomasta to collect rents and to sue for them is a power-of-attorney and requires to be stamped as such.

Rughu Nandan Thakur v. Ram Charan Kupai (10 W.R.F.B., 39).

Section 2(22)—"Promissory notes"

1. A letter reciting a request for a loan calling on the addressee to pay the amount to the bearer of the letter and continuing "this sum I shall repay with interest.....and get back this letter: I request you will not neglect to pay the amount on the strength of this

letter" is a *promissory note* and not a mere proposal for a loan. *Channamma v. Ayyanna*, I. L. R., 16 Mad., 283.

2. An instrument which contains an undertaking to deliver a certain quantity of grain on demand is not a promissory note as defined in section 2, clause (22). It is an agreement requiring a stamp of 8 annas under Article 5 "It is not a bond under section 2, clause (5) (c) because it is not attested by a witness": *Abhairaj Kuar v. Dutta Din* (1922, 73 Indian Cases, 465 Oudh).

3. To ensure a promissory note the instruments must contain a promise to pay money only. Therefore, a document which contains a promise to pay money and a certain quantity of grain is not a promissory note. *Muttu Chetti v. Muttan Chetti* (I. L. R., 4 Mad., 296).

4. Moreover it must contain an express promise to pay, otherwise it is not a promissory note: *Govind v. Banwantrao* (I. L. R., 22 Bom., 986). It must also be definite in its terms, and not vague: *Carter v. Agra Savings Bank* (I. L. R., 5 All., 562).

5. An instrument to be a promissory note must contain words that amount to an undertaking to pay, and not a mere acknowledgment of a liability to pay. Such words as "I am liable to pay" or "I am bound to pay" would not constitute an undertaking to pay. *Tirupathi Goundan v. Roma Redhi*. (21 Mad., 49).

Section 2(23)—"Receipts"

1. The Calcutta High Court have ruled that a memorandum purporting that a sum of money has been received by a bank from a person other than a constituent of such bank, to be credited to a constituent's account and furnished by the bank for transmission to such constituent is not a receipt or discharge given for or upon payment of money in satisfaction of a debt. (I. L. R., 3 Cal., 597).

2. Where the receipt for money exceeding twenty rupees, in satisfaction of a debt, is acknowledged by letter without a receipt stamp being affixed, the writer is liable to punishment. [I. L. R. 8 Mad. (1885), 11.] And the same was held where the receipt of a cheque

for Rs.100 was acknowledged by letter in the following terms :—“ Your cheque for Rs.100 to hand.” Queen-Empress *v.* Muttirulandi. (I. L. R., 11 Mad., 329.)

3. An entry in a debtor’s *khatta*-book by his creditor representing a payment of Rs.405-4, as against a debit of the same amount, and signed by the creditor was held to be a “ receipt.” Per Tottenham, J. : “ The signature of Juggernath and the amount, Rs.405-4, in his hand-writing, form, in my opinion, a writing whereby the debt was acknowledged to have been paid off. I think so, because of the place in which this writing appears, namely, against the entry in the debtor’s book where the debtor recorded payment of his debt. It is true that we must look to the intention of the parties as to what this writing by Juggernath was intended to import ; and upon the evidence I have no doubt that the intention was that what Juggernath wrote should operate as a receipt.” Queen-Empress *v.* Juggernath. (I. L. R., 11 Cal., 267.)

4. A receipt given by a barrister for a fee is exempt from stamp duty, as being for the payment of money without consideration. “ A barrister’s fee for services in litigation is a gratuity of honorarium. The relation of counsel and client in litigation creates an incapacity to contract for such services. Such services are not capable of forming such a valuable consideration as will support an action on the client’s promise to pay, and conversely if the client does pay, the payment must be held to be one without consideration. Ref. (9 Mad., 140) : Ref. (16 All., 132). See also in *re Beaven* (23 L. J. C., 536). ”

5. A receipt granted on behalf of a municipal body acknowledging receipt of moneys, paid in satisfaction of municipal taxes, and exceeding twenty rupees in amount requires a stamp. “ The receipt in question is one for payment of house-rate due to the municipality under the Act constituting the municipality. The payment is not gratuitous but one in satisfaction or discharge of legal obligation imposed by the Act and in order to relieve the payer from the consequences which would ensue in case of his committing default, and is, therefore, not one without consideration ”. *In re Karachi Municipality.* (12 Bom., 103.)

6. A made a payment of Rs.22 to B. At A's request C made a memorandum in writing to the following effect: "B has received Rs.22," but affixed no stamp to it. He was charged and convicted under section 61 of the Indian Stamp Act (I of 1879), for not affixing a receipt stamp to the memorandum. *Held* (reversing the conviction), that the memorandum was not a receipt. To constitute a receipt within the meaning of section 3(17) of the Stamp Act, there must be an acknowledgment, either express or implied, of the receipt, and not a mere statement that money was received. *In re Jamnadas Harinaran.* (23 Bom., 54.)

7. A certificate to the effect that certain money has been paid which on the face of it appears to be intended not as an acknowledgment of receipt but for production before some person in support of a claim for exemption from some payment or otherwise is not a receipt as defined by section 2, clause (23): Civil reference No. 5 of 1904 of the Chief Court of Lower Burma.

Section 2(24)—"Settlement"

Where a person on account of natural affection bestowed on his sister and her son certain land it was held that the instrument was not a settlement but a gift as it was an "unqualified gift to two persons jointly and though the result must be that provision is made for them, it does not appear that it was the object of the gift". (Ref. 7 Mad. 350).

But on the other hand, where there was a provision merely for the life of the donee with reversion to the settlor and his heirs the instrument was held to be a settlement: Ref. (21 Mad., 422).

Section 3—"Instruments chargeable with duty"

1. An agreement was first executed in England by D and E with A, the senior partner of a firm, and stamped with the stamp required by English law for agreements executed in England, and it was subsequently executed in India by B and C, the other two partners, but not stamped with an Indian stamp. *Held*, that the agreement was liable to Indian stamp duty,

and was not admissible in evidence unless and until the proper stamp duty and penalty were paid. *Oakes and Company v. Jackson and another.* (I Mad., 134).

2. An instrument executed outside British India and not relating to any property situate or to any matter or thing done or to be done in British India, is not chargeable with stamp duty under the Indian Stamp Act. In *re Mawachi Mines, Ltd.*, (48 Indian cases, 187).

Section 4—“Several instruments used in single transaction of sale, mortgage or settlement”

1. The document marked A was a document on a three-rupee stamp paper executed by H to one V purporting to convey to him certain immovable property absolutely for the consideration of Rs. 275. On the same deed of sale R, the undivided nephew of the executant, endorsed his consent to the sale. *Held*, that the endorsement of consent and the conveyance were several instruments employed to complete a transaction within the contemplation of section 6 of the Stamp Act (I of 1879), and the consent ought to have been written on a separate stamp paper of the value of one rupee. In the matter Haumapa. (13 Bom., 281.)

2. Two brothers having come to an agreement as to the settlement of their joint property embodied this agreement in a deed which was duly stamped according to the value of the property dealt with thereby. Subsequently the parties to this deed executed a second deed of settlement which modified the provision of the first in certain directions, but dealt with no property which was not covered by that document. Both deeds were contingent on the happening of events which at the time of the execution of the second deed were still future events. *Held*, that the transaction effected by the two deeds fell within the purview of section 4 and the full duty having been paid on the first deed, the second required a stamp of one rupee only: Stamp Reference (37 All., F. B.) Cf. In *re Rameswar Prasad* 47 All., 310, F.B.)

Section 5—“Instruments relating to several distinct matters”

1. By an instrument which recited that A was indebted to B in the sum of two lakhs of rupees, and that A had taken a fresh loan of Rs. 2,59,000 from B, the former leased certain mauzahs to the latter for a term of twenty years, at a yearly rental of Rs. 1,40,000. It was provided that, from the rent of each year, a portion should be deducted in payment of A's debt to B; so that in this way the whole debt should be paid by a series of instalments, extending over the term of the lease. The instrument also contained the usual clauses found in pattahs. On the question what was the proper amount of stamp duty leviable on the document. *Held*, that, though the arrangement intended to be effected was partly a lease and partly a usufructuary mortgage, yet the instrument came within the provisions of section 7, paragraph 2, of the Stamp Act, and should be stamped as a mortgage only. In the matter of a reference from the Board of Revenue under section 46 of the Stamp Act. *Ex parte* Hill. (8 Cal., 254.)

2. A company, having obtained from the Secretary of State for India the right to search for and work minerals in a certain district, prepared an indenture with the object that it should be executed by numerous persons, who were landholders and owners of surface and mining rights over the lands comprised in that district. By the indenture, each intended executant, for a consideration of one rupee and a royalty, granted to the company a license to prospect and work upon a piece of land belonging to him and covenanted to sell or lease the mining rights over it if required. The executant further covenanted to indemnify the company from claims that might be made by other persons, and undertook not to sell the mining rights to any other person for fifty years:

Held, that the instrument was chargeable with the aggregate amount of the duties with which separate instruments relating to the same matter would be chargeable. Upon the face of it, the instrument dealt with several distinct matters, namely, with agreements with several persons with regard to their separate property; and the proper stamp to be affixed was an

eight-anna stamp, or as many such stamps as there were separate landholders, who were made parties to the agreement:

Held, also, that the instrument did contain distinct agreements with any one raiyat. Reference under section 57 of the Stamp Act. (24 Mad., 176).

3. A lease for three years at a specified rent containing a covenant on the part of the lessor to renew it, at the option of the lessee, for a further period of one or two years from the expiration of the original terms, is not an instrument comprising or relating to several distinct matters within the meaning of section 5 of the Stamp Act, 1899. Such an instrument contains but one contract, namely, a demise. The option to renew is ancillary to and forms part of the consideration for entering into the lease. Reference under section 57 of the Stamp Act. (25 Mad., 3.)

4. *Numerous parties*.—“The rule upon this subject is thus correctly laid down in “Philips on Evidence,” (Vol. I, p. 445), “If the interest of the parties relates to one thing which is the subject-matter of the instrument or, in other words, if the instrument affects the separate interests of several and there is a community of the same subject-matter as to all the parties then a single stamp will be sufficient but where the parties have separate interests in several subject-matters there ought to be a separate stamp for each party”, per Jervis, C. J. Doe v. Tidbury. (14 C. B., 304).

5. A power-of-attorney executed jointly by a number of persons, which empowers the Agent to perform on behalf of the executants, certain acts in respect of which their interests are separate and distinct, is an instrument comprising or relating to several distinct matter under section 5 of the Indian Stamp Act, and requires under Article 48 of Schedule I as many stamps as there are separate and distinct powers given under it.

6. The concurrence of several parties to one and the same lease does not make it a multifarious document within the meaning of section 5 of the Stamp Act.

The stamp duty on such a lease is the same as on conveyance for a consideration equal to the amount or value of the fine or premium for which the lease is

granted. [Reference by the Board of Revenue under section 57(1) of the Indian Stamp Act, 1899. (37 Cal., 629.)]

Section 6—"Instrument coming within several descriptions in Schedule I"

1. A zamindar leased certain land in his village to some cultivators at a rent of Rs.365 per annum in cash and of certain cart-loads of straw and grass, by a document which also contained an agreement by the lessees hypothecating certain other property belonging to them for the purpose of securing the payment of the agreed rent, and for the performance of the engagement for the delivery of the other articles. *Held*, that the document above referred to should be stamped as a mortgage-deed according to the definition contained in section 3, sub-section (13) of Act, I of 1879, and also that it fell within the second paragraph of section 7 of the above Act. *Ex parte* Hill (8 Cal. 294), referred to. Reference under Stamp Act, section 49, (17 All., 55.)

2. Where an instrument contained (1) an agreement for the delivery of rab or sugar with a provision for damages in case of breach of the contract to deliver and (2) a hypothecation bond of certain immovable property, *viz.*, the produce of a sugarcane field as security for the payment of any damages that might become recoverable by way of compensation for non-delivery, it was held that the document fell within two definitions *viz.*, that of a bond and also of a mortgage deed and that being of this double character it fell within the principle recognized by section 7 (Act I of 1879) [now section 6]. In the matter of Gajraj Singh (9 All., 585).

Section 12—"Cancellation of adhesive stamps"

1. The drawing of lines across an adhesive stamp is as effectual a mode of cancellation as any other. "Certainly this is the method of cancellation adopted by a large number even of literate people." Kishori Lal Banarsi Das *v.* Rom Lal Tek Chand [1921, 60 Indian cases, 559 (Lahore)]; Mela *v.* Sheoraj Ram Teli (1918, 41 All., 169 S. C. 17 A.L. J. 19); Mohammad Amir Mirza Beg *v.* Kedar Nath [1912, 15 Indian cases, 202 (Oudh)].

2. A cross mark made on the stamp by an illiterate person in indication of his acknowledgment constitutes an effectual cancellation of the stamp 1924, 3 Rangoon 39.

3. Where a document which ought to be stamped bears an adhesive stamp the cancellation of which has not been affected as prescribed by section 12, it is inadmissible in evidence under section 35 [*vide* section 12 cl.(2)]: Barham Deo Rai *v.* Ram Kishore Mahton (1920, 60 Indian cases, 652, Patna) Peoples Bank of India *v.* Abdul Karim (18 Punjab Record 1912) Sunder Dass *v.* Peoples Bank of India (1912, 16 Indian Cases, 834, Punjab).

Section 13—“Instruments stamped with impressed stamps how to be written”

1. *Held*, that this rule was an enabling rule authorising parties to use plain papers in addition to a stamp paper, where the whole of an instrument cannot be written on the side of the stamp paper which bears the stamp: and that, while favouring the writing on an instrument only on that side which bears the stamp, it does not prohibit writing on the reverse side.

Reference from Board of Revenue under section 46. [7 Mad. (1884), 176.]

Section 14—“Only one instrument to be on same stamp”

1. An endorsement of transfer, written on a money bond itself duly stamped requires to be stamped. If it is not duly stamped, as it is chargeable with duty, it does not fall within the exemption allowed by the proviso. And inasmuch as the section forbids a second instrument being written upon a paper on which one instrument has been already written, it would be in contravention of the section and consequently deemed to be unstamped under section 15 and the provisions which apply to all unstamped instruments, whether actually or only constructively so, must come into operation: Prahlad Lakshmanraw *v.* Vithu (17 Bom., 687).

2. A deed of release was endorsed on a deed of conveyance for Rs.100. The conveyance bore an impressed stamp of one rupee, but the endorsement was unstamped. *Held*, that the conveyance was valid, and that release could be validated on payment of the deficient stamp-duty and the penalty under section 39 (now 42 of the Stamp Act.)

Reference from Board of Revenue under section
46 (11 Mad., 40.)

3. Where a document, purporting to be a bond contained first the contract of the principal and his signature, and then the contract of the surety and his signature, it was *held* that they formed but one instrument, notwithstanding the apparent separation of the clauses. "The contract of the surety being incidental and accessory to that of the principal, and in respect of one and the same sum or consideration, the leading object or character of the document being the securing of that sum", it was *held* not to fall within the section.

Dowlatram Harji v. Vitho Radhoji (5 Bom., 188).

4. Where an agreement is contained in a series of letters, it is sufficient to have any one of them stamped (8 J.B. Moore, 7). *See also Boyed v. Krieg*. (I.L.R. 17 Cal., 548) and section 35 (c).

5. The plaintiff (bankers) were holders for value of 19 Bills of exchange duly accepted by the defendants payable ninety days after sight. The defendants being unable to meet the bills on the due dates, asked for an extension of time. This being agreed to, the defendants re-accepted the bills and the plaintiffs thereafter altered the red ink memorandum of due date, which appeared at the top right hand corner of each bill, so as to conform with the agreed extension of time for payment. In a suit brought subsequently on the bills, held, that the bills, re-accepted in consequence of the new arrangement arrived at between the parties, amounted to second instruments for which fresh stamps were necessary under section 14 of the Stamp and being not duly stamped, were inadmissible in evidence under section 3 ; per Kajiji, J., International Banking Corporation *v. Pestonje and Company*, 1924, 27 Bom. L.R.31 S.C. 49 Bom., 351.

The above decision was, however, disapproved by MacLeod C.J. and Coyajee J. in Cox and Company *v.* Pestonje (decided on 25th January 1926: *see* I.L.R. 50 Bom., 656 S.C. 28 Bom., L.R.1264). The learned judges held that the mere noting of the extension of time was not a material alteration of the original bill, which still remained as it was drawn payable at so many days after sight and required no fresh stamps (upheld on appeal to the Privy Council; 14th June 1928. Viscount Summer, Sir John Wallis and Sir Lancelot Sanderson).

Section 15—“Instrument written contrary to sections 13 or 14 deemed unstamped.”

Sections 12 and 13 (now 13 and 14) are the only two cases mentioned in the Act in which, though the proper amount of duty has been paid, yet the instruments are to be held not duly stamped.

Reference from the Board of Revenue, section 46 of the Indian Stamp Act, 1879.

[8 Mad.(1885), 539.]

Section 22—“Effect of statement of rate of exchange or average price”

Where a price or value is stated in the instrument the stamp duty must be calculated on the price or value so fixed. If it were otherwise it would be impossible for the parties to a document to fix the amount or value for the purpose of determining what stamp duty should be paid: *Bhairab Chandra v. Alek Jan* (13 Cal., 268).

Section 23—“Instrument reserving interest”

A bond secured an amount of Rs.10 as principal money: and provided that “interest on this sum amounts to Rs.2-8-0”. *Held*, that the bond should be stamped as for Rs.10 only, and that the provision about interest should be left out of consideration for the purpose of the Stamp Act (Civil Reference No. 26 of 1900; 3 Bombay L.R.133).

Section 26—“Stamp where value or subject-matter is indeterminate”

1. Section 26 extends only to cases of instruments chargeable with *ad valorem* duty. It could have no application to the case of a security bond executed by a cashier as security for the due fulfilment of his duties as such and for the re-payment of any sum he might be found liable for to an extent not exceeding Rs.6,000, which would chargeable under Art. 57 (b) : *Mc Dowell and Company v. Ragava Chetty* (27 Mad., 71).

2. By section 26 where the amount of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be ascertained, nothing shall be claimable under it in excess of the amount for which the stamps used would have been correct. In a suit upon a mining lease claiming royalties in excess of the amount covered by the stamps, *held*, that the lease was admissible under section 35 upon payment of the balance of duty and penalties and that the amount claimed could be recovered thereunder: *Lachmi Narayan v. Braja Mohan* : 1924, 4 Patna 34 (P.C.)

3. The word “claimable” in section 26 of Act I of 1879, means “claimable in a Court of Justice”. A mortgage bond, intended to secure future advances up to the sum of Rs.10,000 at a time, was executed on a stamp-paper of Rs.50, and under it altogether more than Rs.10,000 was privately realised by the mortgagee on different occasions. *Held* that there was nothing in section 26 of the Stamp Act of 1879 to prevent the mortgagee from suing to recover the balance of the debt due on the mortgage.

Harendra Lal Roy Chaudhuri v. Tarini Charan Chakravarti.

(31 Cal., 807.)

Section 32—“Certificate by Collector”

A civil court cannot review the certificate granted by the Collector under section 32 of the Act and its validity cannot be challenged except under section 57, on a reference by the Chief Controlling Revenue authority, 1926, 94 Indian Cases 747, Sind (following 10 Indian Cases 702, Nagpore).

Section 33—“ Examination and Impounding of Instruments ”

1. “ The Stamp Act is a Revenue Act, an Act which imposes pecuniary burdens, and the rule of construction in respect of such Acts is that, in case of a doubt, the construction most beneficial to the subject is to be adopted. The subject is not to be taxed, and therefore not to be compelled in this case to pay the higher duty unless the language is clear and unambiguous ” per Field, J. “ When a particular construction has for some years been put upon a fiscal enactment in favour of the public, and that construction has been generally acted upon and acquiesced in by the Government, I think a strong presumption arises in favour of that construction ; and I consider moreover that no other construction, unfavourable to the public, should afterwards be put upon the enactment, except for some very cogent reason, indeed : ” per Garth, C.J., anonymous case (I.L.R., 10 Cal., page 280). See also Kisori Lal Roy *v.* Sharat Chandra Mazumdar (I.L.R., 8 Cal., 593) : Ranier *v.* Gould I.L.R., 13 Mad., 255), and the cases there cited ; and also Ref. (I.L.R., 9 Mad., 146).

2. A complaint having been made against a person for having committed offences under sections 64 (c) and 68 (c) of the Stamp Act of 1899, the Magistrate issued a search warrant under which certain documents were seized and impounded under section 33(2) of the Act. It was contended that his action in impounding them was illegal, because the documents did not come before him in the performance of his functions within the meaning of section 33 (1). Held, that the word “ comes ” is sufficiently wide to include the production of documents under a search warrant.

King-Emperor v. Balu Kuppayan.

(25 Mad., 525).

3. In a suit for recovery of money on a *hatchitta* the plaintiff filed along with the plaint the *hatchitta* which was in a bound book containing a large number of *hatchittas* executed by other persons in favour of the plaintiff. The *hatchitta* on which the suit was brought

being found to be insufficiently stamped the Munsiff examined the other *hatchittas* and impounded them also as they were insufficiently stamped. *Held*, that under section 33 the Munsiff had no jurisdiction to impound the *hatchittas* other than the one which formed the basis of the suit: *Sashi Mohan Saha v. Kumud Kumar Biswas* (1916, 21 C.W.N. 246).

Section 35—“ Instruments not duly stamped inadmissible in evidence, etc. ”

The many important rulings which have been given under this section may best be studied in Donogh's “ Indian Stamp Law ”, eighth edition, 1929.

Section 36—“ Admission of instrument where not to be questioned ”

1. The plaintiff sued to recover the amount due on three *khatas*. The defendant objected that the *khatas* were not duly stamped. The Subordinate Judge held that the instruments were bonds, and as such admitted them in evidence on payment of the proper stamp duty and penalty under section 34, proviso I, of the Stamp Act (I of 1879). At a subsequent stage of the same suit his successor in office was of opinion that the *khatas* in question were promissory notes ; that as such they could be stamped only at the date of their execution, and that they had been illegally admitted in evidence under section 34, proviso I. He accordingly dismissed the suit. On appeal, the District Judge agreed with the Subordinate Judge that the instruments sued on were promissory notes but held that, after they had once been admitted in evidence on payment of the stamp duty and penalty, the question of their admissibility could not be subsequently raised in the suit. He therefore reversed the decree of the Subordinate Judge, and remanded the case for trial on the merits. Against this order of remand, defendants appeal to the High Court. *Held*, that the promissory notes, having been once admitted in evidence, could

not afterwards be rejected on the ground of their not being duly stamped. *Deva Chand v. Hira Chand Kamaraji.* (I.L.R., 13 Bom., 449.)

2. An Appellate Court has no authority to direct the reception of an unstamped document to which the provisions of this section apply unless the amount of duty and prescribed penalty were tendered when the document was first offered in evidence and rejected.

Where the duty and penalty have not been tendered to and refused by a Court of first instance, an Appellate Court has no authority to direct reception of the document on a subsequent tender of that amount. *Champabaty v. Bibi Jibun.* (4 Cal., 213).

3. When an instrument has already been admitted by the Lower Court in evidence as duly stamped, the superior Court has no power to exclude it as inadmissible, though, if it were thought that the instrument had been wrongly stamped ; action may be taken under section 50 (now 61).

Chinnaya Rau v. Ramaya.

[4 Mad. (1882), 140.]

4. Where a document has been admitted in evidence as duly stamped, such admission can only be called in question by the Appellate Court under section 50 (now 61) of the Stamp Act. Reference from Board of Revenue, section 46.

[8 Mad. (1885), 564.]

Section 42—“Endorsement of instrument on which duty has been paid under section 35, 40 or 41”

In the case of a lost document no penalty can be levied and a copy cannot be admitted on payment of penalty, for section 42 of the Stamp Act pre-supposes that the original document on which a penalty can be paid is forthcoming. *Kopasan v. Shamu.* (7 Mad., 440) followed. *Ranga Rau v. Bhavayammi.*

(17 Mad., 473.)

Section 43—“ Prosecution for offence against Stamp law.”

1. A collector is not bound to hold a formal inquiry before directing a prosecution under section 40 (now 43) for an offence against Stamp law. The law does not require intention to be proved to be part of such offence. It is only requisite that it should appear to the Collector that the offence had been committed with an intention to evade payment of the proper duty.

Queen-Empress v. Palani.

[7 Mad. (1884), 537.]

2. Six persons acted as arbitrators in a dispute between two of their fellow-villagers, and delivered their award in writing. Subsequently the award was filed in evidence by one of the disputants in the civil suit in the Court of the Munsiff of Cuttack, who, on the ground that the document bore no stamp, impounded it and forwarded it to the Collector, who ordered the writer to be prosecuted. The Deputy Magistrate, to whom the case was referred, summoned the six persons who had acted as arbitrators, and fined them Rs.25 each. On a reference to the High Court by the District Magistrate, *held*, that the conviction was illegal, and should be set aside. *Held*, also, that the procedure laid down in section 37 [now 40] of the Stamp Act must be strictly followed ; and that, before a prosecution can be instituted under section 40 [now 43], the Collector is bound to form an opinion as to whether the offence was committed with the intention of evading payment of the proper duty.

Empress v. Soddanund Mahanty.

[8 Cal., (859); 10 C. L. R., 365.]

3. A executed to B on plain paper an instrument which should have been executed on a paper bearing a four-anna stamp. B filed a suit against A in the Civil Court and produced the instrument in evidence. The Civil Court called upon A to pay the duty and penalty, and on B's refusal to pay, impounded the document and

sent it to the Collector who sanctioned the prosecution, in the Criminal Court, of both A, and B, but without requiring the payment of penalty and duty. The prosecution resulted in the conviction of A under section 61 [now 62(1)] and of B of abetment of A's offence. The convictions were quashed as illegal by the Bombay High Court with the following remarks : "The effect of sections 37 and 40 [now 40 and 43] of the Stamp Act, I of 1879, is that every one must be allowed an opportunity of paying the penalty before the Collector exercises his discretion under section 69 [now 70]. In many cases there may be a reasonable question whether any penalty is payable or not, and the duty may be recovered by an order which would be lost by prosecution. He ought, at any rate, to do what the law commands as his duty before exercising a mere discretion. It is not abetment of the execution of an un-stamped instrument to receive it, any more than acceptance of stolen property is abetment of theft.

Empress v. Janki.

[7 Bom. (1883), 82.]

4. Section 43 has been enacted to guard against frivolous prosecution. Under this section the mere realization of deficiency in stamp duty and penalty does not exempt the payer of the money from prosecution. But it is laid down that before ordering a prosecution the Collector should satisfy himself that there was an intention of evading payment of proper duty ; 1926, 24 A. L. J. 358.

Section 49—“ Allowance for spoiled stamps”.

1. The Collector himself is the officer and no other, to whom power is given by law to make enquiries into applications for allowances for spoiled stamps, to take evidence on oath in reference thereto, and to grant or refuse such application. He cannot delegate this authority. Where an application had been made for refund, and the Collector made it over for enquiry to a Deputy Collector, it was held that the latter was not entitled to put the witnesses on their oath. Consequently no charge under section 181 or section 193 of the Indian Penal Code could be sustained against such witnesses for speaking falsely.

Empress v. Niaz Ali, (5 All., 17).

2. The reason for making an allowance for a spoiled stamp is that the stamp has become unfit for use. The purchaser at a Court-sale presented a stamped paper for the engrossment of the sale certificate. The stamp was inadvertently punched by some officer of the Court, but the paper was used as intended and delivered to the purchaser. Subsequently a Deputy Collector, treating the certificate as unstamped, levied the stamp duty together with a penalty. *Held*, that the document was duly stamped, and that the amount levied should be refunded.

Reference under Stamp Act, section 46.

(18 Mad., 235).

Section 56—“Control of, and statement of case to, Chief Controlling Revenue-authority”

1. *Sub-section (1).*—This does not empower the Chief Controlling Revenue-authority to interfere with any matter which has been finally or conclusively determined by a Collector or other competent authority, e.g., under section 32 or section 40(a). Reference. (25 Mad., 752) (followed in Stamp References 1917, 40 All. 128 F. B.)

Section 57—“Statement of case by Chief Controlling Revenue-authority to High Court, Chief Court or Judicial Commissioner’s Court”.

1. An adjudication by a Collector under the powers conferred on him by section 31 of the Stamp Act, 1899, as to the duty with which an instrument is chargeable is, by section 32 of that Act, final, and such a case cannot be referred by the Revenue-authorities to the High Court under section 57 of the Stamp Act for an adjudication. Reference under Stamp Act Section 57.

(25 Mad., 751).

2. The Chief Revenue-authority cannot refer an abstract question when there is no pending case before it. It can refer a case only when under section 57,

there is a case pending before it which it is to be disposed of by it on receipt of the High Court's Judgment.

Usuf Dadabai v. Chand Mahomed.

27 Bom., 4R., 1273.

See also Stamp Reference 37 All. 125.

Section 60—“ Statement of case by other Court to High Court or Chief Court.”

A bail bond was executed to a District Munsiff who expressed no doubt as to the amount of duty to be paid and made no application to have the case referred. The District Judge referred the case to the High Court. *Held*, that the District Judge was not authorised to make the reference.

Reference under section 49.

(11 Mad., 38.)

Section 61—“ Revision of certain decision of Courts regarding the sufficiency of stamps.”

1. Where a Court of first instance has admitted a document in evidence as duly stamped, section 36 precludes an Appellate Court from questioning the admission of such document. If the Appellate Court considers the document to be insufficiently stamped, it can deal with it only under this provision (*i. e.*, Section 61)

Ref. (8 Mad., 564.)

A Collector is entitled under section 50 [now 61] of the Stamp Act, 1879, to refer to High Court, the decision of a Provincial Small Cause Court admitting in evidence an insufficiently stamped instrument on payment of duty and penalty.

Reference under section 50, [15 Mad. (1892), 259.]

Section 62.—“Penalty for executing, etc., instrument not duly stamped.”

1. The term “accepting” used in section 61 (now 62) of the Stamp Act, 1879, does not mean “receiving”, but “executing as acceptor.” To receive a promissory note not duly stamped and put it in suit does not constitute an offence under section 61 (now 62) of the Stamp Act, 1879.

Queen v. Gulam Hussain.

(7 Mad. 71.)

2. Where the receipt of money exceeding Rs. 20 in satisfaction of a debt is acknowledged by letter without a receipt stamp being affixed, the writer is liable to punishment under section 61 (now 62) of the Stamp Act, 1879.

Reference under Stamp Act, 1879.

(8 Mad., 11.)

3. M acknowledged receipt of a cheque for Rs. 100 by letter. The letter was not stamped. *Held*, that M was properly convicted under section 61 (now 62) of the Stamp Act, 1879.

Queen-Empress v. Muttirulandi.

(11 Mad., 32.)

4. The non-compliance by the Treasury Officer or the stamp vendor with the direction in the statutory rules to give a certificate is not an act for which the person purchasing the stamp from him can be punished by the invalidation of the stamp innocently bought by him or under section 61 (now 62 of the Stamp Act).

Queen-Empress v. Trailakya Nath Baral.

(18 Cal., 39.)

5. 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, 1869, had any intention to defraud by evading payment of Stamp duty.

Empress v. Dwarknath Chaudhury, (2 Cal., 399.)

But the judgment of the Court goes on to state that the Magistrate is bound to record a conviction provided it is proved that there has been a making, etc., of an unstamped or insufficiently stamped instrument and that the amount of the fine only is left entirely to his discretion.

6. Where certain parties to an arbitration, who had signed the submission to arbitration, also signed the award, not as witness but by way of assent and the award was not stamped, it was held that such parties did not fall within the purview of section 62, clause (1) (b), of the Indian Stamp Act, 1899, as persons "executing or signing otherwise than as witness."

"It is impossible to say that every person who writes his name on a document of this nature otherwise than as a witness has committed an offence under the Act, because, if that was so, even a Judge who signed the document as an exhibit would be liable to fine. It is a pity no definition is given in the Act as to the meaning of the expression "signing otherwise than as a witness."

Emperor *v.* Brij Pal Seran.

(1910, 32 All. 193.)

Section 63—“Penalty for failure to cancel adhesive stamp.”

Where a Government official presented his salary bill to the Treasury for payment through his nephew, with a receipt stamp affixed thereto uncancelled, it was held that the instrument in question was not one contemplated by the first paragraph of section 12, which applies to cases in which the instrument chargeable with duty may be stamped after execution, and that no offence had been committed under sections 12 and 63.

Queen-Empress *v.* Rahat Ali Khan.

(9 All., 210.)

Section 64—“Penalty for omission to comply with provisions of section 27.”

Certain property was sold for Rs.20,000 to one R who paid Rs.1,000 in cash and agreed to give the vendors credit for Rs.19,000 to be drawn against as required. Shortly afterwards the parties agreed to rescind the contract and R resold the property to his vendors giving

them a conveyance in which the consideration was stated to be Rs. 1,000 in cash, no mention being made of the extinction of his liability to pay the remaining Rs. 19,000.—*Held*, on these facts that R had committed an offence within the purview of section 64(a) of the Indian Stamp Act, 1899.

Emperor v. Rameshar Das.

(32 All., 171.)

Section 68—“Penalty for post-dating bills and for other devices to defraud the revenue”.

The second clause of section 67 of the Stamp Act, 1879, [now clause (c) of section 68] is not controlled by the first clause of the section which refers only to bills of exchange and promissory notes but applies to all cases in which a document is executed with intent to defraud the Government of stamp duty.

Reference under Stamp Act, 1879.

(9 Mad., 138)

2. Two letters were written to petitioner in which the writer recommended him to advance sums of money to the bearers of letters and bound himself to repay those sums if lent, in case of default on the part of the borrowers. The loans were made by petitioner, who kept the letters. A prosecution having been subsequently commenced against petitioner under section 68 of the Stamp Act, for defrauding Government of stamp revenue by an illegal device, and he having been convicted on the ground that when the loans were granted the documents became letters of guarantee, and as such liable to stamp duty. *Held*, that the execution of a document which on its face required to be, and was not, stamped could not be said to be “an act, contrivance, or device not specially provided by this Act, or any other law for the time being in force”; and that punishment for the act of the executant of such a document, if it were punishable at all, was provided for under section 62 and it could not therefore be dealt with under section 68. Also that the act of a person receiving an unstamped document might amount to abatement of an offence having

regard to section 62 of the Stamp Act, and to the definition of an "offence" in section 40 of the Penal Code, and if so, would be an act provided for by "any other law for the time being in force," and so not within the term of section 68 of the Stamp Act.

Queen-Empress v. Somasundaram Chetti. (relied on in 1916, 44 Cal., 321).

I. L. R., 23 Mad., 155.

Section 69—“Penalty for breach of rule relating to sale of stamps and for unauthorised sale.”

A person who had been convicted of stealing two stamps was charged, under section 69 of the Stamp Act, 1899, with having sold them, he not being a licensed vendor of stamps.

Held, that the words "sells or offers for sale," which occur in section 69 of the Stamp Act and in section 34 of the Court-fees Act, include the case of a thief who exchanges a stolen stamp for a sum of money, even though the thief cannot give a legal title in regard to the stamp stolen.

Queen-Empress v. Virasami.

[24 Mad. (1901), 319.]

Schedule I, Article 1—“Acknowledgment of a debt.”

1. In deciding whether a given acknowledgment is one falling under Schedule I, article 1, the question to be considered is whether it is given with the dominant intent to supply evidence of the debt. Where a document contains other entries from which it can be deduced that the intention is to arrive at a statement of accounts or to put on record payment on either side, the document although it contains a balancing item at the end is not an acknowledgment under the Stamp Act. 4 Cal., 885. 9 Cal., 162 and 30 Cal., 687 followed.

Surja Mull Chandick v. Ananta Lal Damani.

2. A *khata*, or account stated, bearing a stamp of one-anna, but containing no promise in writing, held to be a mere acknowledgment sufficiently stamped, and not a contract within the meaning of section 25, clause 3, of Act IX of 1872.

Chowksi Himutlal v. Chowksi Achrtalal.

(8 Bom., 194.)

3. The question whether or not an allusion to a debt contained in a letter from a debtor to his creditor amounts to an acknowledgment of the debt within the meaning of article 1, Schedule I of the Stamp Act, 1879, is a question in each case of the intention of the writer. Hence, where such a letter, written *ante litem motam* before limitation in respect of the debt had expired and at a time when other evidence of the debt was subsisting, was tendered in evidence of an acknowledgment of the debt for the purpose of saving limitation under the provisions of section 19 of the Limitation Act, 1877. *Held*, that the said letter was not inadmissible in evidence by reason of its not having been stamped. *Bishambar Nath v. Nand Kishore.*

(15 All., 56.)

4. On a creditor sending to a debtor a statement of the account between them, the debtor endorsed thereon an admission of the correctness of the balance found and added: "Interest at 12 annas per cent. per mensem". *Held*, that this memorandum was something more than a mere acknowledgment of past liability, but was an agreement not otherwise provided for within the meaning of Article 5 (c) of the Stamp Act, 1927, 49 All., 496.

Schedule I, Article 4—"Affidavit" (immediate purpose).

1. S being desirous of obtaining copies of certain records in a suit in the Court of a Sub-Judge appeared before the Nazir and Clerk of that Court and made an affidavit to the effect that she was the heir and legal representative of one of the defendants in that suit and needed the copies for the purpose of producing them

in a suit against her elsewhere. The affidavit together with a duly stamped application was presented by her pleader to the District Judge who, being of opinion that the affidavit should be on a stamped paper referred the case to High Court. *Held*, that the affidavit was exempt.

In re the application of Sheshamma.

(12 Bom., 276.)

Schedule I, Article V—“*Agreement or Memorandum of an Agreement*”.

(For other numerous rulings under this article see *Donogh's Indian Stamp Law*, 8th Edition, pages 545-563.)

1. A document whereby the party executing it purported to sell his right, title, and interests in certain receipts for shares, and to execute in future a *pukka* document of sale thereof, and acknowledged the receipt of Rs. 10,001, held to be an agreement, and, as such, liable to stamp duty of eight annas under Schedule I, article 5, of the Stamp Act (I of 1879), the property in the receipt not being intended to pass forthwith.

Heptula Sheikh Adam and Co., v. Espafali Abdul Ali.

(14 Bom., 316).

2. A document was executed in these terms: “This document, a hand-note, is executed by me for the purpose of purchasing a *ghor*. I take from you Rs. 7. I will pay interest on the sum at a half-anna per rupee per mensem. Having received the Rs. 7 in cash, this hand-note is executed.” *Held*, that the document was not a promissory note, nor a bond, but was an agreement to pay, and as such was chargeable with duty under clause 5, Schedule I, of the Stamp Act.

Ferrier v. Ram Kulpa Ghose, 23 W. R. 403, referred to in *Murari Mohun Roy v. Khetter Nath Mulik*.

(I. L. R., 15 Cal., 150).

3. In a contract for work to be performed entered into by a contractor with the Executive Engineer of a district, it was stipulated that payments should be

made from time to time to the contractor as the work progressed, and that the Engineer might retain 10 per cent. on the value of the work done to cover compensation for default on the part of the contractor and as security for the proper performance of the contract. *Held*, that this contract was chargeable with stamp duty as an agreement under article 5 (c) and not as a "mortgage" under article 44 (a) of Schedule I of the Stamp Act, 1879.

Reference under Stamp Act, 1879.

(7 Mad., 209.)

4. An agreement for the sale of goods does not require a stamp under the Indian Stamp Act, although it contains provisions as to the warehousing and insurance of the goods previous to delivery.

Kyd v. Mahomed.

(15 Mad., 150.)

5. B agreed to take from H some pasture ground and was to graze 13 she-buffaloes at Rs. 1-10-0 each paying Rs. 2-12-0 in two instalments: in default of payment of one instalment the whole was to become due at once. *Held*, that the instrument was an agreement.

In Re Hormasji Irani.

(13 Bom., 87.)

6. An agreement by a zamindar to execute a formal deed of lease of his zamindari which is under attachment after obtaining a certificate from the Court under section 305 * of the Civil Procedure Code is an "agreement to lease" under article 4, Schedule I, of the Stamp Act.

* Order
XXI, rule
83. Act VI of
1908.

Reference under Stamp Act, section 46.

(17 Mad., 280.)

7. By an agreement in writing the vendor agreed to sell and the purchaser to buy certain salt for a price to be paid at a future date. The salt was to be at purchaser's risk from the date of execution of the agreement and if not removed within a certain time to revert to and become the property of the vendor. *Held*, that the document was exempt. Reference from Board of Revenue, section 46.

10 Mad., 27.

8. An account written on a sheet of paper signed by the debtor and addressed to the creditor, and also containing a stipulation to pay interest, is not a mere acknowledgment of a debt on which a stamp duty of one-anna is leviable under article 1, Schedule I of the Indian Stamp Act, but an agreement or memorandum. If an agreement, which requires a stamp of 8 annas, under clause (b) of article 5, Schedule I of the Indian Stamp Act. *Laxumi Bai v. Ganesh Ragunath*, I.L.R., 25 Bom., 373, followed. *Mulchand Lala v. Kashibul-law Biswas* (1907).

(35 Cal., 111.)

Schedule I, Article 23—“Conveyance”.

1. When by one and the same deed there is a conveyance of freehold lands and good will and a transfer of interest secured by leases, the deed should be stamped under article 23 of Schedule I of the Stamp Act with an *ad valorem* duty on the conveyance of the freehold property, good will, buildings, and erections, and under article 62 of the schedule with a duty of Rs. 5 on the transfer of each of the interests secured by the leases.

Reference under Stamp Act, 1879, section 49.

(23 Cal., 283.)

2. The amount payable on a conveyance under the Stamp Act, Schedule I, article 23 is properly calculated

on the consideration set forth therein, and not on the intrinsic value of the property conveyed.

Reference under Stamp Act, section 45.

(20 Mad., 27.)

[But the consideration must be truly set forth *see* section 27 of the Act.]

Schedule I, Article 24—“Copy or extract”

1. *Held*, that a copy of an order passed by a Municipal Board on a petition presented to it, and certified as a true copy by the Secretary to the Board, came within article 24 of the first schedule to the Indian Stamp Act, and required to be stamped. The Secretary of a Municipal Board is a “public officer” within the meaning of article 24 of the first schedule to the Stamp Act, for the purposes indicated therein.

Reference under Stamp Act, section 46.

(19 All., 293.)

2. A copy or extract from an entry in an account book, filed under the provisions of sections 141A and 142A of the Civil Procedure Code (now O. XIII Rr 4,5) requires no stamp. *Kastur Danoji Marwadi v. Fakiria Halia Patil* (1902).

(26 Bom., 522.)

Schedule I, Article 33.—“Gift”

1. Where a donee was directed in an instrument of gift of certain land to maintain the donor out of the profits of the land. *Held*, that the instrument was liable to stamp duty as a gift, and not as a declaration of trust.

Reference under Stamp Act, section 46.

(12 Mad., 89.)

2. A bestowed upon his eldest sister and her son, because of natural affection, certain land, and executed a document accordingly. *Held*, that the instrument is not a settlement within the meaning of Act I of 1879, but a gift. The definition of the term settlement suggests the creation of separate interests in favour of several persons who may have legal or moral claim on the settlor or for whom he may desire to make a provision. It would not necessarily embrace the whole property of the settlor. In the present case there is an unqualified and absolute gift to two persons jointly, and although the result must be that a provision is made for them, it does not appear that it was the object of the gift.

Reference from Board of Revenue.

[7 Mad. (1884), 349.]

3. To make a valid gift under the Muhammadan law it is requisite that there should be acceptance with seisin or taking possession ; and it is an essential condition that the donor should be in possession of what he or she professes to give: *Mohinudin v. Manchershah* (I.L.R., 6 Bom., p. 655). But see also *Kuvarbai v. Mir Alam Khan*.

(7 Bom., 170.)

Schedule I, Article 35—“Lease”

1. A mittadar executed a perpetual lease of certain villages for Rs. 1,954 per annum. Of this, Rs. 1,554-10-7, representing the Government peshkash, the lessor directed the leasee to pay to Government and the balance Rs. 400 to himself. The lease was written on a 20-rupee stamp paper. *Held*, that the sum of Rs. 1,954 represented the rent, and that the stamp duty was to be calculated thereupon.

Reference from Board of Revenue.

(7 Mad., 155.)

2. By a document purporting to be a lease, certain land was leased for four years at a rent of Rs.15 per annum. Out of the total rent it was stipulated that Rs. 50 should be paid in advance and the balance Rs.10 at the end of the term. *Held*, that the payment of Rs.50 in advane was not payment of a premium or fine within the meaning of Article 35 of the Stamp Act.

By a document purporting to be a rent agreement, the lessee took a shop for five years, agreeing to pay Rs.30 per annum as rent, depositing one year's rent with the lessor, which was to be credited to the rent of the last year of the term. *Held*, that the deposit of one year's rent with the lessor was not a fine or premium within the meaning of Article 35 of the Stamp Act.

By a document purporting to be an instrument of mortgage, the owner of certain land, being indebted in a certain sum, conveyed the land to his creditor for nine years in liquidation of the principal and interest of the debt. The creditor was to take the produce of the land, enjoy the profits or suffer the loss, and pay Rs. 25 per annum as rent. *Held*, that the document was a lease with a premium liable to duty under Article 35 of Schedule I of the Stamp Act, 1879.

Reference under Stamp Act, 1879.

(7 Mad., 203.)

3. A *kabuliyat* or lease relating to immoveable property let to a tenant for *any purpose other than that of cultivation* is not exempt from stamp duty, but is chargeable with such duty under Schedule I, Article 35 of that Act.

Narayan Ramchandra v. Dhondu Raghu.

I.L.R., 10 Bom., 173.

4. *Exemptions*.—(1) A person whose occupation is that of a cultivator and who takes a lease of land for planting cocoanut trees is in respect of that occupation

a cultivator. A lease given by him is one exempt from stamp duty if the annual rent reserved thereby does not exceed Rs.100.

Ram Chandra Vasudevshat *v.* Babaji Kusaji.

(15 Bom., 73.)

(2) A counterpart of a lease of salt *pans*, *held*, not to be exempt from stamp duty as it did not purport to be a counterpart of a lease granted to a cultivator. Manjunath Mangeshaya Baindur *v.* Mangesh Sheshagiriapu Gokarakor.

(18 Bom., 546.)

Schedule I, Article 40—“Mortgage-deed”

[Numerous rulings are given under this head at pages 642-653 of Donogh's Indian Stamp Law, 8th Edition.]

1. In consideration of an advance of Rs.1,450, on interest, repayable on demand, certain boat-owners assigned to S. and Co. their paddy boats, the boat-owners retaining the working and being responsible for the safety of the boats, and agreeing, so long as the sum advanced with interest should remain unpaid, to use their boats for the sole purpose of supplying paddy to S. and Co. and to deliver such paddy (which was to be paid for at the market rate) at the end of each trip as directed by S. and Co. On failure to make repayment on demand, S. and Co. were empowered to take possession and to sell the boats. *Held*, that the document was a mortgage, and not a pledge, and as such should be stamped under Article 40(b) of Schedule I of the Stamp Act.

Matter of Ko Shway Aung *v.* Strang Steel and Company.

(21 Cal., 241.)

2. It is well settled that in determining whether an instrument is liable to duty as a mere transfer of a mortgage, *cf.* Article 62, clause (c) or to the full duty of a mortgage (*cf.* Article 40), the Court will look at the substance of the transaction and not merely at the form of the instrument; Bank of Bengal *v.* Lucas (1923, 51 Cal., 185.)

Schedule I, Article 45—"Partition."

The market value of the property which is the subject matter of partition should furnish the basis for calculating the stamp duty.

Reference (2 All., page 668.)

Schedule I, Article 53—"Receipts"

See also the rulings under section 2(23)—"Receipts"

1. An endorsement on a mortgage acknowledging the receipts of the sum thereby secured is exempt from stamp duty under Article 53(a) of the Indian Stamp Act. Reference under Stamp Act, section 46.

(10 Mad., 64.)

2. Where a receipt in writing is given by the Secretary or other manager of a club to a member acknowledging a payment above Rs.20 on account of a club bill it is liable to stamp duty. Reference under Stamp Act, section 46.

(10 Mad., 85.)

3. A receipt given by a Barrister for a fee is exempted from stamp duty by Article 53(b) of the schedule of the Stamp Act. Reference under Stamp Act, 1879.

(9 Mad., 140.)

4. An intimation which a bank gives to its customer that a certain sum has been paid into his credit by a third person has been held to be not chargeable. A receipt to be a "receipt" or "discharge" must be given to the party who makes the payment: In the matter of the Uncovenanted Service Bank Limited.

(4 Cal., 829.)

5. Held, that, although a receipt for rent of an agricultural holding is exempt from payment of stamp duty under Article 53(c) of the 1st Schedule to the

Indian Stamp Act, 1899, a receipt for payment out of Court of money due under a decree for such rent is not so exempt.

Emperor *v.* Dungar Singh.

(31 All., 36.)

Schedule I, Article 55—“Release”

1. A release chargeable with four-anna stamp duty was executed on paper bearing a one-anna adhesive receipt stamp. *Held*, that in calculating the stamp duty the one-anna stamp ought not to be taken into consideration.

Reference under Stamp Act, section 46, I. L. R., 8 Mad., 87, followed. Reference under Stamp Act, section 50.

I. L. R., 15 Md., 259.

2. A Hindu executed in favour of his father as representing the interest of the other members of his family, an instrument by which he relinquished his rights over the general property of the family in consideration of certain lands being allotted to him for life, and certain debts incurred by him being paid. The instrument further provided that the lands allotted to the executant for life should go towards the shares of his sons at any partition effected after his death. *Held*, that the instrument was not a deed of partition but a release and should be stamped accordingly.

Reference under Stamp Act, section 46.

(18 Mad, 233.)

3. When an instrument set forth (1) that J and S relinquished their right in favour of their brother E ; (2) that E was to discharge certain debts ; and (3) that he was to pay an annuity to J and S, the document being executed by J and S but not by E, it was *held* that the provisions purporting to be in favour of J and

S were a mere recital of the consideration moving from E, and that instrument was chargeable as a release only.

Eknath S. Gowade v. Jagannath S. Gowade and another.

[9 Bom. (1885), 417.]

(followed in *Jiban Kunwar v. Govind Das.* (38 All. 56.)

4. Where the effect of the documents though drawn in the form of releases, was to divide the family property among three brothers, they were held to be instruments of partition. *In Re Govind Pandurang Kamat*, 35 Bom., 75.

The Registration Department has in this connection adopted the following rule :—

When a document is presented creating a new interest in satisfaction of an old one wherein the mortgagor states that the old mortgage debt aggregated a specified amount and the mortgagee remitted a specified portion thereof by a separate stamped release and the present deed is drawn up for the remainder the stamp duty should be levied on the remainder, only if the stamped release is produced otherwise the stamp duty should be levied on the entire amount of the old debt.

[Registration Department Notification No.1031-R., dated the 9th April 1937—Fin.(m)—90/38.]

Schedule I, Article 57—“Security Bond or Mortgage Deed”

Holmwood and Teunon, JJ., held in *Dwarka Nath Dey v. Sailaja Kanta Mullick* (21 C. W. N. 1150), that security bonds given in pursuance of an order of the Court for stay of execution should be stamped under the Stamp Act. Newbould and Panton, JJ., have recently held in *Sarbo Musalmani v. Safar Mandal* (49 Cal., 997) that a security bond executed by a person for the release of attached animals should be stamped under Article 6, second Schedule, Court Fees Act. A Divisional Bench finding the two decisions to be directly opposed to one another referred for the decision of a Full Bench the question whether a security bond executed under the order of the Court passed under order 32, Rule 6 (2) or under any other order or section of the Civil Procedure Code should be stamped under the Court Fees Act or under the Stamp Act.

The Full Bench held that security bonds executed in pursuance of an order of the Court under Order 32, Rule 6(2) or any other rule or section of the Civil Procedure Code must bear a court-fee stamp of 8 annas as required by Article 6 of Schedule II of the Court Fees Act; and that they will also be chargeable under the Stamp Act if they are of the kind described in Article 40 or Article 57 but they will not be chargeable under the Stamp Act if they fall under the residuary article 15 1925, (292 C. W. N. 851 F. B.)

Schedule I, Article 58—“Settlement”.

1. Under article 58 of Schedule I of the Stamp Act, stamp duty on a settlement is to be calculated on the value of the property settled as set forth in such settlement. *Held*, that these terms do not mean the value of the interest or interests created by the settlement, but refer to the value of the property settled, which, it was intended by the Legislature, should be set forth in the settlement.

Reference under Stamp Act, 1879.

(8 Mad., 453.)

2. An instrument called a trust-deed by the party executing it was intended to have immediate operation. It vested the property in the trustees at once, and the provisions as to the management and the ultimate beneficial interest in the property showed that it was contemplated that its operation might extend beyond the lifetime of the owner. *Held*, that the instrument fell under the definition of a settlement in the Stamp Act (I of 1879), and should be stamped accordingly. Reference by the Collector and Superintendent of Stamps, Bombay.

(I. L. R., 20 Bom., 210.)