

No. XX.

An Act to further amend the Stamp Duties Stamp Duties Acts
FURTHER
AMENDMENT (No. 2).
Act of 1880 and the Stamp Duties Act
Amendment Act of 1886. [23rd May, 1894.]

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

1. (1) Where application is made for probate or letters of administration, or for an order to collect in respect of the estate of any person dying after the passing of this Act domiciled at some place within or out of the Colony of New South Wales, the estate of that person shall, for the purposes of the Stamp Duties Act of 1880 and of the Stamp Duties Act Amendment Act of 1886 be taken to include—

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

And duties may be levied, collected, and paid under and in accordance with the provisions of the said Acts and the Schedules thereto in respect of the said debts and shares, notwithstanding that the debts or shares were not, at the time of the death of the said person, *bona notabilia* within the Colony.

(ii) Provided that nothing in this section shall render any person liable under section forty-eight of the Stamp Duties Act of 1880 to a penalty for taking possession of or administering the estate of a deceased person, where the estate includes no property in respect of which probate or letters of administration or an order to collect may be granted in the Colony.

2. (1) Duties shall be levied, collected, and paid according to the duties mentioned in Schedule B to the Stamp Duties Act Amendment Act of 1886, and shall be charged and chargeable upon and in respect of all estate, whether real or personal—

- (a) Which any person dying after the passing of this Act has disposed of, whether before or after the passing of this Act, by will, or by settlement containing any trust in respect of 23 Vic., c. 15, s. 4. that estate to take effect after his death, under any authority enabling that person to dispose of the same by will or deed, as the case may be.
- (b) Taken under a voluntary disposition made after the passing 44 Vic., c. 12, s. 38,
subs. 2 (a). of this Act by any person so dying, purporting to operate as an immediate conveyance or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust or otherwise, which has not been *bona fide* made twelve months before the death of that person.
- (c) Which any person, so dying, having been absolutely entitled 44 Vic., c. 12, s. 38,
subs. 2 (b). thereto, has, before or after the passing of this Act, voluntarily

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voluntarily caused to be conveyed, transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person.

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

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

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

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

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

And in this subsection the expression "voluntary settlement" includes any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed or other instrument effecting the settlement, whether that deed or instrument was made for valuable consideration or not as between the settlor and any other person.

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

(ii) The said duties shall be levied, collected, and paid, and shall be charged and chargeable upon and in respect of all personal estate (not being chattels real) taken under any gift whenever made by any person so dying, of which *bondā fide* possession and enjoyment has not been assumed by the donee immediately upon the gift, and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

3. (i) Where any person, dying after the passing of this Act, was at the time of his death domiciled within the Colony of New South Wales, all debts actually due and owing by him shall be deducted from his estate.

What debts may be deducted.
31 & 32 Vic. c. 124,
s. 7.

44 Vic. c. 12, s. 28.

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

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

Short title.

4. This Act may be cited as the "Stamp Duties Acts Further Amendment Act of 1894." And this Act and the Acts amended by it may be together cited as the "Stamp Duties Acts 1880-1894."