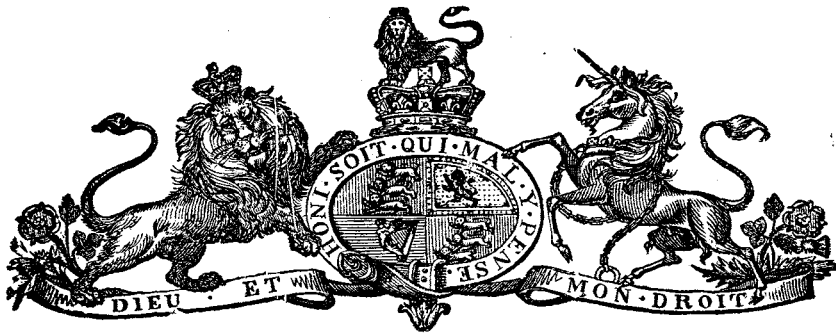


T A S M A N I A.



1868.

ANNO TRICESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 2.

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AN ACT to provide for the raising of additional Stamp Duties in *Tasmania*.

[17 September, 1868.]

**W**HEREAS it is expedient to raise a further portion of the Public Revenue of this Colony from additional Stamp Duties: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

**1** On and after the First day of *October* next there shall be raised, levied, and paid in and throughout this Colony, for and in aid of the Public Revenue, for and in respect of the several instruments, matters, and things described and mentioned in the Schedule, the several Stamp Duties or sums of money therein set down in figures against the same respectively.

Duties specified in Schedule to be levied.

**2** The Stamp Duties imposed and made payable by this Act shall, subject to the provisions of this Act, be denoted by a Stamp, either impressed upon the paper whereon any such instrument is written, or by an adhesive Stamp affixed thereto; and such Stamp when not impressed shall be obliterated in the manner pointed out in *The Stamp Act, No. 2*.

Duties, how denoted.

**3** In all cases of the sale of any lands, tenements, rents, annuities, or other property, real or personal, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property, where a duty is imposed on the conveyance thereof, in

The purchase money to be truly set forth in the conveyance.

*Stamp Duties.*

proportion to the amount of the purchase or consideration money therein or thereupon expressed, the full purchase or consideration money which shall be directly or indirectly paid or secured or agreed to be paid for the same shall be truly expressed and set forth in words at length in or upon the principal or only deed or writing, or document of Title under *The Real Property Act*, whereby the land or other thing sold shall be granted, assigned, transferred, released, renounced, or otherwise conveyed to or vested in the purchaser, or any other person by his direction; and also where, upon the sale of any annuity, easement, servitude, or other right not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or other security, the full purchase or consideration money which shall be directly or indirectly paid or secured or agreed to be paid for the same shall be truly expressed and set forth in words at length in or upon the bond or other instrument or instruments by which the same shall be secured; and if in any of the said cases the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser, and also the seller, shall forfeit the sum of Fifty Pounds, and shall also be charged and chargeable with and be holden liable to the payment of Five times the amount of the excess of duty which would have been payable for such deed, bond, or instrument as aforesaid in respect of the full purchase or consideration money in case the same had been truly expressed and set forth in or upon the same, pursuant to the directions of this Act, beyond the amount of the duty actually paid for the same; which quintuple duty shall be deemed and taken to be a debt to Her Majesty, Her Heirs and Successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly.

The purchaser may recover back so much of the consideration as is not stated.

**4** Where the full purchase or consideration money is not truly expressed and set forth in the manner hereby directed, the purchaser, or his executors or administrators, may recover back from the seller, or his executors or administrators, so much and such part of the purchase or consideration money as is not expressed and set forth as aforesaid, or the whole thereof if no part of the same is so expressed and set forth, either in an action for money had and received for the use of the party suing for the same, or by action of debt in the Supreme Court, together with costs of suit.

Penalties on Attorneys, &c., for not inserting the true consideration.

**5** If any Attorney, Solicitor, or other person who is employed in or about the preparing of any such deed, bond, or other instrument, in or upon which the full purchase or consideration money is hereby required to be truly expressed and set forth as aforesaid, or who is employed for any of the parties thereto, in anywise about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such deed, bond, or other instrument any other than the full and true purchase or consideration money, directly or indirectly paid or secured or agreed to be paid for the same, or shall in anywise aid or assist in the doing thereof respectively, every such Attorney, Solicitor, or other person so offending shall forfeit for every such offence a sum not exceeding One hundred Pounds.

Deeds not to be registered, &c., by Public Officers unless stamped.

**6** No deed or writing by this Act required to be stamped shall be registered, recorded, or received by any Public Officer unless the same is duly stamped.

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*Stamp Duties.*


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**7** In every case where the Stamp Duty upon any deed or writing by this Act required to be stamped (except Foreign Bills of Exchange) would amount to not less than One Pound, such Duty may be paid to any Officer appointed by the Governor to receive the same, and on receipt of such Duty the Officer shall write and sign a receipt for such Duty upon the face of such instrument, and such receipt shall have the same effect as if Stamps to the amount acknowledged to have been received had been placed upon such instrument at the date of such receipt, and the signature of such Officer to such receipt and to every other receipt or certificate which he is by this Act empowered to give, shall be judicially noticed in all proceedings civil and criminal.

Duty exceeding  
£1 may be paid  
in cash.

**8** Every deed or writing (except Foreign Bills of Exchange) by this Act required to be stamped shall be stamped before the same is executed, or within Twenty-eight days after the same was first executed by any party thereto, upon producing the same to such Officer as aforesaid, and where such deed or writing is first executed out of the Colony, then the same may be stamped upon producing the same before such Officer as aforesaid at any time within Fourteen days after the same arrives in this Colony. And every such deed or document may, at any time after the periods hereinbefore mentioned, be stamped in the presence of such Officer upon payment of a penalty equal to the amount of the Duty and Five Pounds, but not otherwise; and such Officer shall on such deed or writing certify that the same has been so stamped; and the amount of duty and the sum of Five Pounds shall be paid as penalty, in lieu of the sum of Five Pounds only, in case any such deed or writing is stamped under the provisions of Section Six of *The Stamp Act, No. 2*.

Duty when to be  
paid.

**9** Where there are several deeds or writings or duplicates, the parties may pay Duty on one such deed or writing or duplicate, and, if necessary, the other deeds, writings, or duplicates shall be stamped by such Officer as aforesaid with a denoting Stamp, or he shall write thereon a certificate denoting or testifying the payment of the *ad valorem* Duty, upon all the deeds or instruments being produced and appearing to be duly stamped in other respects, and upon payment of the amount of the denoting Stamp.

Denoting Stamps.

**10** Where in any case such Officer as aforesaid is satisfied, by affidavit or otherwise, that any Stamp, or document to which any Stamp has been affixed, has been spoiled or rendered unfit for use, or has not been actually used for any of the purposes intended, such Officer may, at any time within Thirty days after such Stamp has been so spoiled, allow other Stamps in lieu of the Stamps so spoiled or rendered unfit for use, or which have not been actually used for any of the purposes intended.

Spoiled Stamps.

**11** All Policies of Insurance issued out of this Colony upon property or lives of persons in this Colony shall be stamped in accordance with the provisions of *The Stamp Act, No. 2*; and no action shall be brought to recover any moneys insured under any Policy of Insurance issued in this Colony or out of it unless at or before the receipt of the first premium in respect of such Policy or the issue of such Policy, whichever shall first happen, the Stamp Duty imposed upon Policies of Insurance has been paid, and the Stamps for such duty may be affixed either to the Receipt for the premium, in addition to the Duty on such Receipt, or to the Policy; and in case such Stamps are affixed to the Receipt, the Policy, on production of such Receipt so stamped, shall be deemed to be sufficiently stamped.

Policies of Insu-  
rance issued out  
of Colony to be  
stamped.  
No Action to be  
brought on Policy  
unless same  
stamped.

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*Stamp Duties.*

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Stamp Duty on Receipts.

**12** The Stamp Duty imposed by *The Stamp Act, No. 3*, upon Receipts or Discharges given for or upon the payment of any sum of money amounting to Forty Shillings and upwards shall extend and apply to every case in which a Cheque or Draft on any Bank is given in payment in the same manner as if current Coin of the Realm had been paid to the amount of such Cheque or Draft.

Acts to be read together.

**13** This Act and *The Stamp Act*, and *The Stamp Act, No. 2*, and *The Stamp Act, No. 3*, shall be read and construed together as one and the same Act.

Short title.

**14** This Act may be cited as "The Stamp Act, No. 4."

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Stamp Duties.

SCHEDULE.

	Duty.		
	£	s.	d.
<p><b>BOND AND COVENANT.</b>—Any Bond or any Deed containing a covenant for the payment or repayment of any sum or sums of money, or for the transfer or re-transfer of any Debenture, in any case where a mortgage, if made for the like purpose, would be chargeable with any <i>ad valorem</i> duty exceeding in amount the sum of Ten Shillings, or for the payment of any annuity or any sums at stated periods, in any case where a Bond for the like purpose would be chargeable with any such duty.</p> <p><i>Exemptions.</i>—Bonds given under <i>The Customs Act</i>; Recognizances entered into before any Court or Magistrate.</p>	The same duty as on a Mortgage.		
<b>CHEQUES AND DRAFTS</b> on Bankers .....	0	0	1
<p><b>CONVEYANCE</b>, whether grant, disposition, lease, assignment, transfer, release, renunciation, certificate, or document under <i>The Real Property Act</i>, or of any other kind or description whatsoever, upon the sale of any lands, tenements, rents, annuities, or other property real or personal, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property, that is to say, for and in respect of the principal or only deed, instrument, or writing whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction.</p> <p>Where the purchase or consideration money expressed in or upon the principal or only deed, certificate of title, instrument, or writing of conveyance shall not exceed £100 .....</p> <p>And where the purchase or consideration money shall exceed £100, then for every additional £50 and also for any fractional part of £50 .....</p> <p><i>Note.</i>—The purchase or consideration money is to be truly expressed and set forth in words at length in or upon every such principal or only deed or instrument of title or conveyance.</p> <p>And where any lands or other property of different tenures or holdings, or held under different titles, contracted to be sold at one entire price for the whole, shall be conveyed to the purchaser in separate parts or parcels by different deeds or instruments, the purchase or consideration money shall be divided and apportioned in such manner as the parties shall think fit, so that a distinct price or consideration for each separate part or parcel may be set forth in or upon the principal or only deed or instrument of conveyance relating thereto, which shall be charged with the said <i>ad valorem</i> duty in respect of the price or consideration money therein set forth.</p> <p>And where any lands or other property contracted to be purchased by two or more persons jointly, or by any person for himself and others, or wholly for others, at one entire price for the whole, is conveyed in parts or parcels by separate deeds or instruments to the persons for whom the same is purchased for distinct parts or shares of the purchase money, the principal or only deed or instrument of conveyance of each separate part or parcel, shall be charged with the said <i>ad valorem</i> duty in respect of the sum of money therein specified as the consideration for the same. But if separate parts or parcels of such lands or other property are conveyed to or to the use of or in trust for different persons in and by one and the same deed or instrument, then such deed or instrument shall be charged with the said <i>ad valorem</i> duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid for the lands or property thereby conveyed.</p> <p>And where any person having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell to any other person, and the same shall in consequence be conveyed immediately to the sub-purchaser, the principal or only deed or instrument of conveyance shall be charged with the said <i>ad valorem</i> duty in respect of the purchase or consideration money therein mentioned to be paid or agreed to be paid by the sub-purchaser.</p> <p>And where any person having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell the whole or any part or parts thereof to any other person or persons, and the same shall in consequence be conveyed by the original seller to different persons in parts or parcels, the principal or only deed or instrument of conveyance of each part or parcel thereof shall be charged with the said <i>ad valorem</i> duty in respect only of the purchase or consideration money which shall be therein mentioned to be paid or agreed to be</p>	0	5	0
	0	5	0

Stamp Duties.

	Duty.		
	£	s.	d.
<p>paid for the same by the person or persons to whom or to whose use or in trust for whom the conveyance shall be made without regard to the amount of the original purchase money.</p>			
<p>And in all cases of such sub-sales as aforesaid the sub-purchasers, and the persons immediately selling to them, shall be deemed and taken to be the purchasers and sellers within the intent and meaning of the provisions of this Act relating to the <i>ad valorem</i> duties on conveyances on the sale of property thereby imposed.</p>			
<p>But where any sub-purchaser shall take an actual conveyance of the interest of the person immediately selling to him, which shall be chargeable with the said <i>ad valorem</i> duty in respect of the purchase or consideration money paid or agreed to be paid by him, and shall be duly stamped accordingly, any deed or instrument of conveyance to be afterwards made to him of the property in question by the original seller shall be exempted from the said <i>ad valorem</i> duty, and be charged only with the ordinary duty on deeds or instruments of the same kind, not upon a sale.</p>			
<p>And where any lands or other property separately contracted to be purchased of different persons at separate and distinct prices shall be conveyed to the purchaser, or as he shall direct in and by one and the same deed or instrument. such deed or instrument shall be charged with the said <i>ad valorem</i> duty in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid for the same.</p>			
<p>And where any lands or other property shall be sold and conveyed in consideration wholly or in part of any sum of money charged thereon by way of mortgage or otherwise, and then due and owing to the purchaser, or shall be sold and conveyed subject to any mortgage, bond, or other debt, or to any gross or entire sum of money to be afterwards paid by the purchaser, such sum of money or debt shall be deemed the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the said <i>ad valorem</i> duty is to be paid.</p>			
<p>And to prevent doubts respecting what shall be deemed the principal deed or instrument of conveyance in certain cases, it is hereby declared :</p>			
<p>That where <i>upon the sale of any annuity or other right not before in existence</i> the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument by which the same shall be secured, or some one of such instruments if there be more than one, shall be deemed and taken to be liable to the same duty as an actual grant or conveyance.</p>			
<p>And where there shall be several deeds, instruments, or writings for completing the title to the property sold, such of them as are not liable to the said <i>ad valorem</i> duty shall be charged with the duty to which the same may be liable under any general or particular description of such deeds, instruments, or writings contained in this or any other Act imposing Stamp Duties.</p>			
<p>And where <i>in any case not hereby expressly provided for</i> of several deeds, instruments, or writings a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to pay the said <i>ad valorem</i> duty thereon accordingly; and if necessary the other deeds, instruments, or writings on which the doubt shall have arisen shall be stamped with a particular stamp for denoting or testifying the payment of the <i>ad valorem</i> duty upon all the deeds or instruments being produced and appearing to be duly stamped in other respects.</p>			
<p>And where there shall be duplicates of any deed or instrument chargeable with the said <i>ad valorem</i> duty, one of them only shall be charged therewith, and the other or others shall be charged with the ordinary duty on deeds or instruments of the same kind not upon a sale, and on the whole being produced duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said <i>ad valorem</i> duty.</p>			
<p><i>Exemptions from the preceding Duties on Conveyances upon the Sale of Lands, &amp;c.</i></p>			
<p>All transfers of Debentures of the Colony or guaranteed by the Governor.</p>			
<p>All leases except so far as the same may be in consideration of any fine or forgift.</p>			
<p>All grants and conveyances of Waste Lands of the Crown.</p>			
<p>DEED.—For every deed or certificate or document of title under <i>The Real Property Act</i>, where not subject to <i>ad valorem</i> duty under this Act .....</p>	0	5	0
<p>Provided that where <i>ad valorem</i> duty is payable upon any deed no deed stamp shall be necessary.</p>			
<p>DENOTING STAMP or Certificate as in this Act mentioned .....</p>	0	5	0
<p>FOREIGN BILL OF EXCHANGE drawn in, but payable out of, the Colony.</p>			

Stamp Duties.

	Duty.
	£ s. d.
<p>If drawn singly or otherwise than in a set of three or more, the same duty as on an inland bill of same amount and tenor; to be paid by the Drawer.</p> <p>If drawn in sets of three or more, for every Bill of each set not less than one-third of the same duty as on an inland bill of the same amount and tenor; to be paid by the Drawer.</p> <p><b>FOREIGN BILL OF EXCHANGE</b> drawn out of the Colony, and payable within the Colony, the same duty as on an inland bill of the same amount and tenor; to be paid by the Holder.</p> <p><b>FOREIGN BILL OF EXCHANGE</b> drawn out of the Colony and payable out of the Colony, but indorsed or negotiated within the Colony, the same duty as on a foreign bill drawn within the Colony, and payable out of the Colony; to be paid by the Holder.</p> <p><b>MORTGAGE</b>, conditional surrender by way of mortgage, further charge or disposition, by way of security, reversion of or affecting any property real or personal whatsoever.</p> <p>Also any conveyance of any lands, estate, or property whatsoever in trust, to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, <i>except where such conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified, who shall accept the provision made for payment of their debts in full satisfaction thereof, or who shall exceed five in number.</i></p> <p>Also any defeazance, declaration, or other deed or writing for defeating or making redeemable, or explaining or qualifying any conveyance or disposition of any lands, estates, or property whatsoever, which shall be apparently absolute, but intended only as a security.</p> <p>Also any agreement, contract or bond, accompanied with a deposit of title deeds or documents for making a mortgage, or any such other security or conveyance as aforesaid, of any lands, estate or property comprised in such title deeds or documents, for pledging or charging the same as a security.</p> <p>Where the same respectively shall be made as a security for the payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable.</p> <p>And where the same respectively shall be made as a security for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be, <i>other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage or security against damage by fire, or to be advanced for the insurance of any life or lives, pursuant to any agreement in any deed whereby any annuity shall be granted or secured for such life or lives.</i></p> <p>If the total amount of the money secured or to be ultimately recoverable thereupon shall be uncertain and without any limit.....</p> <p>But if the total amount of the moneys secured or to be ultimately recoverable thereupon shall be limited not to exceed a given sum.</p> <p>And where the same respectively shall be made as a security for the transfer or re-transfer of any Debenture in consideration of Debentures or money advanced or lent at the time or previously due and owing, or forborne to be paid, being payable.</p> <p>And where the same respectively shall be made as a security for the payment of a sum of money and also for the transfer or re-transfer of any Debentures, the said <i>ad valorem</i> duty shall be charged in respect of each.</p> <p>And in case the same respectively shall be made as a security for the payment or transfer to different persons of separate and distinct sums of money or Debentures, the said <i>ad valorem</i> duty shall be charged for and in respect of each separate and distinct sum of money or Debenture secured, and not upon the aggregate amount thereof.</p> <p>Any transfer or assignment, disposition or re-conveyance of any mortgage or of any such other security as aforesaid, or of the benefit thereof, or of the money or Debenture thereby secured, provided no further sum of money or Debenture be added to the principal money or Debenture already secured .....</p> <p>And if any further sum of money or debenture shall be added to the principal money or debenture already secured, the said <i>ad valorem</i> duty on mortgages shall be charged only in respect of such further money or Debenture.</p>	<p style="text-align: center;">12 10 0</p> <p>The same duty as on a mortgage for such limited sum.</p> <p>The same duty as on a mortgage for a sum of money equal to the value of such Debenture according to the average price thereof on the date of the mortgage.</p> <p style="text-align: center;">1 0 0</p>

## Stamp Duties.

	<i>Duty.</i>
	£ s. d.
<p>Provided always, that where several distinct deeds or instruments falling within the description of any of the instruments hereby charged with the said <i>ad valorem</i> duty on mortgages shall be made at the same time for securing the payment or transfer of one and the same sum of money, the said <i>ad valorem</i> duty shall be charged only on one of such deeds or instruments, and if required for the sake of evidence, all the rest of such deeds or instruments shall be also stamped with the same particular stamp for denoting or testifying the payment of the said <i>ad valorem</i> duty on all the said deeds or instruments being produced duly stamped with the duties charged thereon.</p>	
<p>And where there shall be duplicates of any deed or instrument chargeable with the said <i>ad valorem</i> duty on mortgages, one of them only shall be charged therewith; and on the whole being produced, duly stamped as by law required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said <i>ad valorem</i> duties.</p>	
<p><i>Exemptions from the said ad valorem duty on Mortgages, &amp;c. but not from any other duty to which the same may be liable.</i></p>	
<p>Any deed or other instrument made for the further assurance only of any estate or property already mortgaged, pledged, or charged as a security by any deed or instrument which shall have paid the said <i>ad valorem</i> duty.</p>	
<p>Any deed or instrument made as an additional or further security for any sum or sums of money, or any Debenture already secured by any deed or instrument which shall have paid the said <i>ad valorem</i> duty; but if any further sum of money or Debenture shall be added to the principal money or Debenture already secured, or shall be thereby secured to any other person, the said <i>ad valorem</i> duty shall be charged in respect of such further sum of money or Debenture.</p>	
<p>And if necessary for the sake of evidence the deeds and instruments hereby exempted from the said <i>ad valorem</i> duty shall be stamped with a particular stamp for denoting or testifying the payment of the said <i>ad valorem</i> duty upon all the Deeds and Instruments relating to the particular transactions being produced, and appearing to be duly stamped with the duties to which they were liable.</p>	
<p><b>MORTGAGE</b>, with the conveyance of the equity or right of redemption or reversion or other matter in the same deed; viz.—</p>	
<p>Where any deed or writing shall operate as a mortgage or other instrument charged with the <i>ad valorem</i> duty on mortgages, and also as a conveyance of the equity or right of redemption or reversion of any lands, estate, or property therein comprised to or in trust for and according to the direction of a purchaser, such deed or writing shall be charged not only with the said <i>ad valorem</i> duty on mortgages, but also with the <i>ad valorem</i> duty charged on a conveyance upon the sale of any property; but where the equity or right of redemption or reversion shall be thereby conveyed or limited in any other manner, such deed or writing shall be charged only as a mortgage.</p>	
<p>And in all other cases where a mortgage or other instrument hereby charged with the <i>ad valorem</i> duty on mortgages shall be contained in one and the same deed or writing with any other matter or thing (except what shall be incident to such mortgage or other instrument), such deed or writing shall be charged with the same duties as such mortgage or other instrument and such other matter or thing, would have been separately charged with if contained in separate deeds or writings.</p>	