

TRINIDAD AND TOBAGO.

No. 9—1931.

I ASSENT,

[L.S.]

A. C. HOLLIS,
Governor.

6th May, 1931.

AN ORDINANCE relating to Estate and
Succession Duties.

[1st June, 1931.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1.—(a) This Ordinance may be cited as the Estate and ^{Short title.} Succession Duties Ordinance, 1931.

(b) This Ordinance shall commence on the first day ^{Commence-} of June, 1931. _{ment.}

PART I.

ESTATE DUTY.

PRELIMINARY.

2. In this Ordinance

“Court” means the Supreme Court of the Colony;

“Deceased person” and “the deceased” mean a person dying after the commencement of this Ordinance;

“Estate Duty” means estate duty under this Ordinance;

Interpretation.

- “Estate duty affidavit” means the affidavit, together with the accounts annexed thereto, mentioned in section 25 hereof ;
- “Executor” means the executor or administrator of a deceased person, and includes, as regards any obligation under this Ordinance, any person who takes possession of or intermeddles with the property of a deceased person, and in the case of a deceased person whose estate and effects are taken possession of by the Administrator-General, means the Administrator-General ;
- “Incumbrances” includes mortgages and terminable charges ;
- “Interest in expectancy” includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases ;
- “Property” includes real property and personal property of any kind situate or being in the Colony and the proceeds of sale thereof respectively, and any money or investment for the time being representing the proceeds of sale ; and, in the case of a deceased person who was at the time of his death domiciled in the Colony, includes personal property wherever it may be ;
- “Property passing on the death” includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and the expression “on the death” includes “at a period ascertainable only by reference to the death” ;
- “Settled,” when applied to property, means property comprised in a settlement ;
- “Settlement” means any deed, will, agreement for a settlement, or other instrument or any number of instruments, under or by virtue of which any property or any interest therein stands for the

time being limited to or in trust for any person or persons by way of succession, and includes any interest in remainder or reversion not disposed of by the settlement and reverting to the settlor, and also includes a settlement effected by a parol trust.

“ The Commissioner ” means the Commissioner of Estate Duties appointed under this Ordinance, and includes a Deputy Commissioner of Estate Duties ;

“ Will ” includes any testamentary instrument.

3. For the purposes of this Ordinance—

Presumptions.

- (a) a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property including a tenant in tail whether in possession or not ; and the expression “ general power ” includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself or exercisable as mortgagee ;
- (b) a disposition taking effect out of the interest of the deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required ;
- (c) money which a person has a general power to charge on property shall be deemed to be property of which he has power to dispose.

4.—(1) The Governor may, by notification in the *Royal Gazette*, appoint an officer to carry out the provisions of this Ordinance, to be called the Commissioner of Estate Duties, and such number of Deputy Commissioners of Estate Duties as he thinks fit.

Appointment
of Commis-
sioner, &c.

(2) A Deputy Commissioner of Estate Duties shall have and may exercise such of the powers conferred by this Ordinance on the Commissioner as the Commissioner may delegate to him.

Taking of
oath.

5. Any oath or affirmation required for the purposes of any duty under this Ordinance may be taken before the Commissioner, who is hereby authorised to administer such oath or affirmation, and no fee shall be payable therefor.

PART II.

SUBJECTS OF ESTATE DUTY.

Estate Duty
imposed.

6.—(1) In the case of any person dying after the commencement of this Ordinance, there shall, save as hereinafter expressly provided, be levied and paid, upon the principal value ascertained as hereinafter provided of all property, settled or not settled, which passes on the death of such person, a duty, called "estate duty" at the graduated rates set forth in Schedule "A" to this Ordinance.

(2) In the case of any person dying before the commencement of this Ordinance the duties payable under the Estate Duty Ordinance, Chapter 208, shall continue to be payable in all respects as if this Ordinance had not been passed.

What property
is deemed to
pass.

7. Property passing on the death of the deceased shall be deemed to include the property following, that is to say:—

Life interests.

- (a) Property of which the deceased was at the time of his death competent to dispose;
- (b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest; inclusive of property the estate or interest in which has been surrendered, assured, divested or otherwise disposed of, whether for value or not, to or for the benefit of any person entitled to an estate or interest in remainder or reversion in such property, unless that surrender, assurance, divesting or disposition was *bona fide* made or effected three years before the death of the deceased, and *bona fide* possession and enjoyment of the property was assumed thereunder immediately upon the surrender, assurance, divesting or disposition, and thenceforward retained to the entire exclusion of the person who had the estate or interest limited to

cease as aforesaid, and of any benefit to him by contract or otherwise ; but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office or as recipient of the benefits of a charity or as a corporation sole ;

- (c) Property which was subject to an annuity or other periodical payment limited to cease on the death of the deceased to the extent of the benefit which would accrue from the cesser of that annuity or other payment notwithstanding that the annuity or other payment has been surrendered, assured, divested or otherwise disposed of during the lifetime of the deceased, whether for value or not, to or for the benefit of the person entitled to the property, unless the surrender, assurance, divesting or disposition was *bona fide* made or effected three years before the death of the deceased and the person entitled to the annuity or other payment was not at any time within that period in receipt of any substituted annuity or other periodical payment limited to cease on his death, being an annuity or payment which was secured, whether by contract or otherwise, to him in return for the surrender, assurance, divesting or disposition. Property subject to an annuity which has been surrendered.
- (d) Property taken as a *donatio mortis causa* made by the deceased or taken under a disposition made by him purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery, declaration of trust, or otherwise, which shall not have been *bona fide* made three years before his death, or taken under any gift, whenever made, of which *bona fide* possession and enjoyment shall not have 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 ; Gifts.

Provided always that the property shall not be deemed to pass on the death of the deceased if subsequently, by means of the surrender of the benefit received or otherwise, it is enjoyed to the entire exclusion of the deceased and of any benefit to him by contract or otherwise, for three years before his death.

Joint invest-
ments.

- (e) Property which the deceased, having been absolutely entitled thereto, has caused to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, including also any purchase or investment effected by the deceased alone or in concert or by arrangement with any other person, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person ;

Settlements
with reserva-
tions.

- (f) Property passing under any past or future disposition (including any trust whether expressed in writing or otherwise) made by any person dying after the commencement of this Ordinance verbally or by deed or any other instrument not taking effect as a will, whereby an interest in such 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 such property or the proceeds of sale thereof ;

Life assurance
for benefit of
others.

- (g) Money received under a policy of assurance effected by the deceased on his life where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by the deceased for such benefit.

- (h) Any annuity or other interest purchased or provided by the deceased either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

EXEMPTIONS.

8.—(1) Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person, under a disposition not made by the deceased, or under a disposition made by the deceased more than three years before his death where possession and enjoyment of the property was *bona fide* assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

Property deemed not to pass.
Trust property.

(2) In the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.

Settled property.

(3)—(a) Where by a disposition of any property an interest is conferred on any person other than the disponent for the life of such person or determinable on his death, and such person enters into possession of the interest and thenceforward retains possession thereof to the entire exclusion of the disponent or of any benefit to him by contract or otherwise, and the only benefit which the disponent retains in the said property is subject to such life or determinable interest, and no other interest is created by the said disposition, then, on the death of such person after the commencement of this Ordinance, the property shall not be deemed to pass by reason only of its reverter to the disponent in his lifetime.

Reverter of property to disponent.

- (b) Where by a disposition of any property any such interest as in paragraph (a) mentioned is conferred on two or more persons, either severally or jointly, or in succession, paragraph (a) shall apply in like manner as where the interest is conferred on one person.
- (c) Paragraphs (a) and (b) shall not apply where such person or persons taking the said life or determinable interest had at any time prior to the disposition been himself or themselves competent to dispose of the said property.

Transactions
for money
consideration.

9.—(1) Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bona fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease, for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

Small
annuities.

10.—(1) Estate duty shall not be payable in respect of a single annuity not exceeding twenty-five pounds sterling purchased or provided by the deceased, either by himself alone or in concert or arrangement with any other person, for the life of himself and of some other person and the survivor of them, or to arise on his own death in favour of some other person; and if in any case there is more than one such annuity, the annuity first granted shall be alone entitled to the exemption granted under this section.

(2) Estate duty shall not be payable in respect of any pension granted under the Widows' and Orphans' Pensions Ordinance, Chapter 84, nor in respect of any pension or annuity payable by the Government of British India or of any British Possession or Protectorate to the widow or child of any deceased officer of such Government, notwithstanding that the deceased contributed during his lifetime to any fund out of which such pension or annuity is paid.

Widows' and Orphans' pensions.

11. The Commissioner may remit the estate duty in respect of such pictures, books, prints, manuscripts, works of art or scientific collections as appear to him to be of national, scientific or historic interest, and to be given or bequeathed for national purposes, or to any university or to any municipal corporation; and no property the duty in respect of which is so remitted shall be aggregated with any other property for the purpose of fixing the rate of estate duty.

Property of national or scientific interest given for public purposes.

12.—(1) If estate duty has already been paid in respect of any settled property since the date of the settlement, the Estate Duty shall not be payable in respect thereof until the death of a person who was at the time of his death or had been at any time during the continuance of the settlement competent to dispose of such property, and who, if on his death subsequent limitations under the settlement take effect in respect of such property, was *sui juris* at the time of his death or had been *sui juris* at any time while so competent to dispose of the property.

Relief in certain cases.

(2) When the Commissioner is satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a Company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property, or any part thereof, passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death (if that death occurs after the commencement

Relief in respect of quick succession where property consists of land or business.

of this Ordinance), in respect of the property so passing, shall be reduced as follows:—

Where the second death occurs within one year of the first death, by 50 per cent. ;

Where the second death occurs within two years of the first death, by 40 per cent. ;

Where the second death occurs within three years of the first death, by 30 per cent. ;

Where the second death occurs within four years of the first death, by 20 per cent. ;

Where the second death occurs within five years of the first death, by 10 per cent. ;

Provided that where the value, on which the duty is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

Provided further that this section shall not apply where the land or business in respect of which the estate duty has again become payable within such period of five years passes to any person other than a husband, wife, lawful issue, ancestor, brother, sister, nephew or niece of the deceased.

PART III.

AGGREGATION AND VALUE OF PROPERTY.

Aggregation of property to form one estate for purpose of estate duty.

13.—(1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing shall be aggregated so as to form one estate, and the duty shall be levied at the proper graduated rate on the principal value thereof.

Provided that any property so passing, in which the deceased never had an interest, shall not be aggregated with any other property, but shall be an estate by itself, and the estate duty shall be levied at the proper graduated rate on the principal value thereof.

(2) Property passing on any death shall not be aggregated more than once, nor shall estate duty in respect thereof be more than once levied in respect of the same death.

(3) In determining the rate of estate duty chargeable, the value of all the real and personal property of the deceased situate outside of the Colony shall be included as well as the value of the property of the deceased within the Colony.

14.—(1) The principal value of any property shall be estimated to be the price which, in the opinion of the Commissioner, such property would fetch if sold in the open market at the time of the death of the deceased. ^{Principal value.}

(2) In estimating such principal value the Commissioner shall fix the price of the property according to the market price at the time of the death of the deceased, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time.

(3) Where it is proved to the Commissioner that the value of the property has been depreciated by reason of the death of the deceased, the Commissioner in fixing the price shall take such depreciation into account.

15. Where an estate includes an interest in expectancy, estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the estate duty in respect of the rest of the estate, then— ^{Interests in expectancy.}

- (a) for the purpose of determining the rate of estate duty in respect of the rest of the estate, the value of the interest shall be its value at the date of the death of the deceased; and
- (b) the rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

Value of
interests
ceasing on
death.

16. The value of the benefit accruing or arising from the cesser of an interest on the death of the deceased shall :

- (a) if the interest extended to the whole income of the property, be the principal value of that property ; and
- (b) if the interest extended to less than the whole income of the property, be the principal value of an addition to the property equal to the income to which the interest extended.

Allowance for
debts and
funeral
expenses.

17.—(1) In determining the value of an estate for the purpose of estate duty, allowance shall be made for reasonable funeral expenses, and for debts and incumbrances, but an allowance shall not be made :—

- (a) for debts incurred by the deceased or incumbrances created by a disposition made by the deceased, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest ; nor
 - (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained ; nor
 - (c) more than once for the same debt or incumbrance charged upon different portions of the estate ;
- and any debt or incumbrance for which an allowance is made shall be deducted from the value of the property liable thereto.

(2) An allowance shall not be made in the first instance for funeral expenses incurred outside of the Colony or for debts due from the deceased to persons resident out of the Colony (unless contracted to be paid in the Colony or charged on property situate within the Colony) except out of the value of any property of the deceased situate out of the Colony in respect of which estate duty is paid ; and there shall be no repayment of estate duty in respect of any such funeral expenses and debts except to the extent to which it is shown to the satisfaction of the Commissioner that the property of the deceased situate in the country in which the person to whom such funeral expenses and debts are due resides is insufficient for their payment.

18.—(1) Where the Commissioner is satisfied that in the United Kingdom, or in any British possession to which this section applies, estate duty is payable by reason of a death in respect of any property situate in the United Kingdom, or in such possession and passing on such death, he shall allow a sum equal to the amount of that duty to be deducted from the estate duty payable in respect of that property on the same death.

Exception as to property in the United Kingdom and British Possessions.

(2) No such deduction as is provided for in this section shall be made until and unless the duty so payable in the United Kingdom or British possession has been actually paid, and in the meantime the full amount of estate duty shall be assessed and payable, and on payment of the duty in the United Kingdom or British possession a refund of the amount thereof shall be made accordingly in the same manner as in the case of duty paid in excess.

(3) The Governor in Executive Council may, by proclamation in the *Royal Gazette*, apply this section to any British possession, where he is satisfied that, by the law of such possession, either no duty is leviable in respect of property situate in such possession when passing on death, or that the law of such possession as respects any duty so leviable is to the like effect as the provisions contained in sub-section (1) of this section.

(4) The Governor in Executive Council may revoke any such proclamation, where it appears that the law of the British possession has been so altered that it would not authorise the making of a proclamation under this section.

(5) Where any property passing on the death of the deceased is situate in a foreign country, and the Commissioner is satisfied that by reason of such death any duty is payable in that foreign country in respect of that property, he shall make an allowance of the amount of that duty from the value of the property.

Property in a foreign country.

(6) For the purposes of this section, and of section 20 of the Finance Act, 1894, of the United Kingdom, the local situation of any property shall be determined in accordance with the law in force, for the time being, in Great Britain or Northern Ireland, as the case may require.

Mode of determining situation of property.

PART IV.

LIABILITY FOR ESTATE DUTY.

Duty to be a first charge.

19.—(1) Unless and until the same is paid as hereinafter provided, the estate duty payable in respect of any property passing on the death of a deceased person shall be a first charge on all the property of the deceased coming to an executor or being under his control, so far as the duty payable by such executor is concerned, and on the property passing to any other person, so far as the duty payable by such other person is concerned. Provided that the property shall not be so chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

(2) Nothing in this Ordinance shall be held to create a charge for estate duty on any property situate outside the Colony, or to authorise the Commissioner to take any proceedings outside the Colony for the recovery of any estate duty.

(3) As between the several persons beneficially interested in the property passing on the death of a deceased person, all estate duty paid under this Ordinance in respect of such property shall (unless there is a direction to the contrary in the Will of the deceased or other instrument under which the property passes) be apportioned among such persons in proportion to the values of their interests in the property.

Liability of executor.

20.—(1) The executor of the deceased shall pay the estate duty in respect of all property of which the deceased was competent to dispose at his death, on delivering the estate duty affidavit to the Commissioner, and may pay in like manner the estate duty in respect of any other property passing on such death not under his control, if the persons accountable for the duty in respect thereof request him to make such payment; but an executor shall not be liable for any duty in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

Provision for unknown values.

(2) Where the executor does not know the amount or value of any property which has passed on the death, he may state in the estate duty affidavit that such property exists, but that he does not know the amount or value

thereof, and that he undertakes as soon as the amount and value are ascertained, to bring in an account thereof, and to pay both the duty for which he is or may be liable, and any further duty payable by reason thereof for which he is or may be liable in respect of the other property mentioned in the affidavit.

(3) Where property passes or is deemed to pass on the death of the deceased, and his executor is not accountable for the estate duty in respect of such property, every person to whom any property so passes or is deemed to pass for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title shall be accountable for the estate duty on the property, and shall within the time required by this Ordinance, or such later time as the Commissioner allows, deliver to the Commissioner and verify an account to the best of his knowledge and belief of the property: provided that nothing in this section shall render a person accountable for duty who acts merely as agent or bailiff for another person, in the management of property.

21.—(1) A person authorised or required to pay the estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise the amount of such duty and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof.

(2) A person having a limited interest in any property, who pays the estate duty in respect of that property, shall be entitled to the like charge, as if the estate duty in respect of that property had been raised by means of a mortgage to him.

(3) Any money arising from the sale of property comprised in a settlement or held upon trust to lay out upon the trusts of a settlement may be expended in paying

any estate duty in respect of property comprised in the settlement and held upon the same trusts.

(4) If the rateable part of the estate duty in respect of any property is paid by the executor, it shall where occasion requires be repaid to him by the trustees or owners of the property.

Apportionment
of estate duty.

22.—(1) In the case of property which does not pass to the executor as such, an amount equal to the proper rateable part of the estate duty may be recovered by the person, who being authorised or required to pay the estate duty in respect of any property has paid such duty, from the person entitled to any sum charged on such property (whether as capital or as an annuity or otherwise) under a disposition not containing any express provision to the contrary.

Disputes.

(2) Any dispute as to the proportion of estate duty to be borne by any property or person, may be determined upon application by way of originating summons in the Court.

Persons bound
by accounts as
settled.

(3) Any person from whom a rateable part of estate duty can be recovered under this section shall be bound by the accounts and valuations as settled between the person entitled to recover the same and the Commissioner.

PART V.

COLLECTION OF ESTATE DUTY.

Date when
duty due.

23. The duty which is to be collected upon an estate duty affidavit or upon an account directed to be delivered under section 25 (4) hereof shall be due on the delivery thereof or on the expiration of six months from the death, whichever first happens.

Interest
payable on
estate duty.

24. Simple interest at the rate of six per cent. per annum shall be paid upon all estate duty from and after the expiration of six months of the date of the death of the deceased to the date of payment and shall be recoverable in the same manner as if it were part of the duty.

25.—(1) Every person applying to the Court for a grant of probate or letters of administration and every person applying to the Registrar-General for registration under section 4 (1) of the British and Colonial Probate Ordinance, Cap. 59, of a grant of probate or letters of administration made by a Court of Probate in the United Kingdom or in a British possession to which the said last mentioned Ordinance applies, shall, to the best of his knowledge and belief, specify in appropriate accounts annexed to the estate duty affidavit to be delivered to the Commissioner within six months from the date of the death of the deceased or such later time as the Commissioner may allow all the property in respect of which estate duty is payable upon the death of the deceased. ^{Filing of accounts of property.}

(2) The estate duty affidavit shall extend to the verification of the accounts annexed thereto and shall be in a form to be approved by the Commissioner.

(3) The accounts annexed to the estate duty affidavit shall include all income accrued or accruing upon the property included therein down to and outstanding at the date of the death of the deceased.

(4) Where the executor is not accountable for estate duty in respect of any property passing on the death of the deceased, the person accountable shall, within six months from the date of the death of the deceased or such later time as the Commissioner may allow, deliver to the Commissioner an account, in a form to be approved by the Commissioner, of such property verified to the best of his knowledge and belief.

26. An accountable person who wilfully fails to comply with the provisions of Section 25 (4) of this Ordinance shall be liable to pay one hundred pounds, or a sum equal to double the amount of the estate duty, if any, remaining unpaid for which he is accountable, according as the Commissioner elects. ^{Penalties for delay.}

27.—(1) Any sum of money whatsoever owing to His Majesty under the provisions of this Ordinance shall be a debt due to the Crown and may be recovered under the Crown Suits Ordinance, Chapter 36. ^{Recovery of estate duty, &c.}

(2) A certificate purporting to be signed by the Commissioner, and stating the amount owing under this Ordinance, shall, in proceedings under this section, be *prima facie* evidence of the statements therein contained.

(3) Where any proceeding is instituted for the recovery of any sum owing under this Ordinance in respect of any property, the Court may appoint a receiver of the property and the rents and profits thereof and may order a sale of the property.

Powers of
Commissioner.

28.—(1) Every person accountable for estate duty, and every person whom the Commissioner believes to have taken possession of or administered any part of the estate in respect of which duty is leviable on the death of the deceased, or of the income of any part of such estate, shall, to the best of his knowledge and belief, if required by the Commissioner, deliver to him and verify a statement of such particulars together with such evidence as he requires relating to any property which he has reason to believe to form part of an estate in respect of which estate duty is leviable on the death of the deceased.

(2) A person who wilfully fails to comply with the provisions of sub-section (1) of this section shall be liable to pay one hundred pounds, or a sum equal to double the amount of estate duty, if any, remaining unpaid for which he is accountable, according as the Commissioner elects:

Inspection of
property.

(3) Subject to the provisions of this Ordinance, the value of any property for the purpose of estate duty shall be ascertained by the Commissioner in such manner and by such means as he thinks fit, and if he authorises a person to inspect any property and report to him the value thereof for the purposes of this Ordinance, the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the Commissioner considers necessary.

Valuation of
property.

(4)—(a) The Commissioner shall, if he is satisfied with the particulars set out in the estate duty affidavit or account, assess the duty on the footing of such particulars, but it shall be lawful for the Commissioner, if he is dissatisfied with such particulars, to cause a valuation to be made by a person named by him and to assess the duty on the footing of such valuation ;

(b) If the duty so assessed in accordance with a valuation made by the person named by him exceeds the duty assessable according to the particulars set out in the estate duty affidavit or account, it shall be in the discretion of the Commissioner having regard to the merits of each case to defray the costs incident to such valuation or to recover from the estate the whole or any part of such costs.

(5)—(a) Where any document in the custody of the Commissioner relating to duty charged or chargeable in respect of any property has been lost or destroyed, or has been so defaced or damaged as to be illegible or otherwise useless, the Commissioner may require any person appearing to him to be accountable or to have accounted for that duty, to furnish to him to the best of his ability such information, particulars and evidence, including evidence by affidavit, as he may require for replacing that document, and any person so appearing to be accountable shall be liable to discharge all claims in respect of that duty, unless he proves to the satisfaction of the Commissioner that those claims have already been discharged or that he is not accountable for the duty.

Lost,
destroyed or
damaged
documents.

(b) The Commissioner shall have all such powers for the purpose of enforcing any requirement made by him under this sub-section as he had for enforcing the delivery of the document which is to be replaced, and all statutory provisions in that behalf, including provisions as to penalties, shall apply accordingly with the necessary modifications.

(c) The Commissioner shall pay to any person complying with any requirement under this section his reasonable costs of so doing, and if any question arises as to the amount so to be paid as costs, the question shall be referred to and determined by the Registrar of the Court.

29.—(1) When the Commissioner has ascertained the amount of the duty and interest payable on an estate duty affidavit or account, he shall certify the same in writing on the affidavit or account, as the case may be.

Commis-
sioner's
certificates.

(2) When an amount payable on an estate duty affidavit or account has been paid, the Commissioner shall certify such payment in writing on the affidavit or account, as the case may be.

(3) The Commissioner shall then prepare a certificate under his hand setting forth that the estate duty affidavit or account has been duly delivered and that the estate duty, if such duty is payable, has been paid, and stating the value of the property as shown in such estate duty affidavit or account.

Probate not to be issued until estate duty paid.

30.—(1) No probate or letters of administration shall be granted by the Court until the Commissioner has given a certificate under section 29 (3) that the estate duty payable in respect of the estate has been paid or has given a certificate that he has allowed payment thereof to be postponed under sub-section (2) or sub-section (4) of this section, and the certificate so given has been filed in Court.

When value cannot be ascertained immediately.

(2) When the estate duty affidavit contains the statement and undertaking specified in section 20 (2) hereof, the Commissioner may allow payment of the whole or any part of the estate duty to be postponed until after the issue of probate or letters of administration, upon condition that a further and complete affidavit shall be delivered and the proper duty paid thereon as soon as the full value of the estate has been ascertained.

Bond

(3) The Commissioner may require the executor to enter into a bond with or without sureties in such an amount as he may think fit to secure the delivery of such affidavit as aforesaid and the payment of the proper duty thereon within such time as shall be named in such bond, or he may require the executor to deposit in his hands such sum of money as he may think fit to be held as security for the payment of the proper duty within such time as he may appoint.

Deferred payment.

(4) Where the Commissioner is satisfied that the estate duty leviable in respect of any property cannot without excessive sacrifice be raised at once, or cannot be paid before the grant of probate or letters of administration, he may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding six per cent. or any higher interest yielded by the property, and on such terms, as he may think fit.

31.—(1) The Commissioner on being satisfied that the full estate duty has been or will be paid in respect of an estate or any part thereof shall, if required by the person accounting for the estate duty, give a certificate to that effect, which shall discharge from any further claim for estate duty the property shown by the certificate to form the estate or part thereof, as the case may be.

Release of
estate on
which duty
is paid.

(2) Where a person accountable for the estate duty in respect of any property passing on a death applies at any time after such death to the Commissioner, and delivers to him and verifies a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto, the Commissioner may if he thinks fit determine the rate of the estate duty in respect of the property for which the applicant is accountable, and on payment of the duty at that rate, that property and the applicant so far as regards that property, shall be discharged from any further claim for estate duty, and the Commissioner shall give a certificate of such discharge.

(3) A certificate of the Commissioner under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for.

Provided, nevertheless, that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate from the estate duty a *bona fide* purchaser for valuable consideration without notice, notwithstanding any such fraud or failure.

(4) Nothing in this section contained shall be deemed to derogate from or affect the power conferred upon the Commissioner by section 33 (1) hereof.

Return of
duty overpaid.

32.—Where it is proved to the satisfaction of the Commissioner that too much estate duty has been paid, the excess shall be repaid by him, and in cases where the overpayment was due to overvaluation by the Commissioner, with interest at six per cent. per annum.

Payment of
additional
duty.

33.—(1) Notwithstanding any assessment or payment of any duty under this Ordinance or any certificate of the Commissioner that no such duty is payable it shall be lawful for the Commissioner at any time thereafter if it is discovered that any duty payable has not been fully assessed and paid to make a further assessment of the duty so unpaid and to recover the same in the same manner as if no previous assessment or payment had been made.

(2) Except in the case of fraud an executor, trustee, guardian, committee, or other person accountable for estate duty shall not be personally liable for any estate duty under any such further assessment by reason of having administered or distributed the estate of the deceased without retaining sufficient assets to satisfy the duty.

Appeal from
Commissioner.

34.—(1) An executor or other accountable person aggrieved by the certificate of the Commissioner under section 29 (1) hereof or by any claim by the Commissioner for payment of estate duty or interest thereon, or cost of valuations or by any further claims under section 33 (1) hereof or by the refusal of the Commissioner to return any estate duty or interest thereon alleged to have been overpaid, may, on payment of, or giving security as hereinafter mentioned for, the amount claimed by the Commissioner or such portion of it as is then payable by him, appeal to the Court within the time and in the manner and on the conditions directed by rules of Court to be made under this section; and the amount of the duty and interest shall be determined by the Court, and if the duty and interest as determined is less than that paid to the Commissioner the excess shall be repaid.

(2) No appeal shall be allowed from any order, direction, determination, or decision of the Court in any appeal under this section except with the leave of the Court or the Full Court.

(3) The costs of the appeal shall be in the discretion of the Court, and where it appears just, the Court may order the Commissioner to pay on any excess of duty or interest repaid by him interest at the rate of six per cent. per annum for such period as appears to the Court just.

(4) The Court, if satisfied that it would impose hardship to require the appellant, as a condition of the appeal, to pay the whole, or as the case may be, any part of the duty claimed by the Commissioner or of such portion of it as is then payable by him, may allow the appeal to be brought on payment of no duty, or of such part only of the duty as to the Court seems reasonable, and on security to the satisfaction of the Court being given for the duty, or so much of the duty as is not so paid, but in such case the Court may order interest at the rate of six per cent. per annum to be paid on the unpaid duty so far as it becomes payable under the decision of the Court.

(5) The Chief Justice, with the concurrence of a ^{Rules of Court.} Puisne Judge, shall make such rules as may be deemed necessary for regulating and providing for appeals under this section, and such rules when made shall be published in the *Royal Gazette*.

PART VI.

SUCCESSION DUTY.

35. In this Part of the Ordinance

Interpretation.

“Predecessor” means the settler, disponent, testator, obligor, ancestor or other person from whom the interest of the successor is or shall be derived.

“Succession” means the interest to which a successor is entitled as such.

“Successor” means with respect to any deceased person any person who on the death of the deceased or within three years before such death is entitled to or acquires (whether in possession or remainder or reversion) any beneficial interest in or absolute power of appointment over the property chargeable with estate duty under this Ordinance.

Succession
Duty imposed.

36. On the death of any person who dies after the commencement of this Ordinance there shall be levied and paid, in addition to the estate duty imposed by this Ordinance, a further duty called succession duty as set out in schedule B hereto in respect of every interest or absolute power of appointment acquired or possessed by any person as the successor of the deceased in the property passing or deemed to pass on the death of the deceased and chargeable with estate duty.

Provided always that if the successor shall not be entitled to a beneficial interest in or to exercise an absolute power of appointment over the property in possession at the death of the deceased, or within or at the expiration of one year from the death of the deceased, the payment of the succession duty may be postponed (except when the provisions of Section 38 (1) apply) until he shall become so entitled in possession from which time interest at the rate of six per cent. per annum on the duty shall accrue.

Duty to be
paid at the
same time as
estate duty.

37. Subject to the provisions of Section 36 of this Ordinance the succession duty imposed by this Ordinance shall be paid at the same time as the estate duty.

How duty on
successions
enjoyed by
persons in
succession
shall be
charged.

38.—(1) The succession duty payable in respect of any property given to or for the benefit of or so that the same shall be enjoyed by different persons in succession, who shall be chargeable with the duties hereby imposed at one and the same rate, having regard to their relationship to the predecessor only and apart from the value of their successions, shall be charged upon and paid out of the property so given, as in the case of a succession to one person of the principal value of that property, without the addition of the successors' interest in any other property.

(2) Where the property, owing to its all not passing to the same class of persons, is not all subject to succession duty at the same rate, such property shall, in the estate duty affidavit or account, be classified according to the rate of succession duty to which it is subject and the value of each succession shall be separately stated in such affidavit or account.

39. The value of a succession for the purpose of this Ordinance shall be :— Value of Succession:

- (1) Where the successor is competent to dispose of the property
 - (a) if the interest of the successor extends to the whole income of the property, the principal value of that property; and
 - (b) if the interest of the successor extends to less than the whole income of the property, the principal value of an addition to the property equal to the income to which the interest extends.
- (2) Where the successor is entitled for life, ascertained and determined by reference to the table contained in Schedule C to this Ordinance.

40.—(1) The persons made accountable for the payment of succession duty in respect of any succession, or some of them, shall, when any duty shall first become payable, give notice to the Commissioner or his officer of their liability to such duty, and shall at the same time deliver to the Commissioner or his officer a full and true account of the property for the duty whereon they shall respectively be accountable, and of the value thereof, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary for enabling the Commissioner fully and correctly to ascertain the duties due. Notice of succession to be given to the Commissioner.

(2) If any person required to give such notice or deliver such account as aforesaid shall wilfully neglect to do so at the prescribed period, he shall be liable to pay £100 or a sum equal to double the amount of the succession duty, if any, remaining unpaid for which he is accountable, according as the Commissioner elects.

41. All the provisions of Parts IV and V of this Ordinance dealing with Estate Duty shall apply with any necessary modifications to succession duty, save that the accountable persons shall not become liable in respect of any future interest of a successor until it becomes an interest in possession, unless the provisions of Section 38 (1) apply, and that an executor shall not, as such, be accountable for the succession duty in respect of such future interest. Application of Parts iv and v to Succession Duty.

PART VII.

MISCELLANEOUS PROVISIONS.

No payment
on policy
moneys unless
duty first paid.

42. No person who shall become entitled on the death of a deceased person to any moneys payable on a policy of life assurance which is liable to any duty under this Ordinance shall have any right to sue for or recover the moneys assured or secured by such policy, or to give a valid discharge for the same, or any part thereof unless such duty payable in respect of such policy moneys has been duly paid, and no payment shall be made to any person claiming the policy moneys unless and until such duty payable thereon shall have been paid.

Inspection of
records, &c.

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

Reduction of
penalties and
commutation
of duties.

44.—(1) The Commissioner may reduce any penalty to which any person is liable under this Ordinance.

(2) The Court in any proceedings for the recovery of any penalty to which any person is liable under this Ordinance may reduce such penalty.

(3) The Commissioner in his discretion upon application by an accountable person may commute any duty under this Ordinance which would or might but for the commutation become payable in respect of any property for a certain sum to be presently paid.

Regulations.

45.—(1) The Governor in Executive Council may make Regulations to carry out generally the purposes of this Ordinance.

(2) Every such Regulation shall come into force upon the publication thereof in the *Royal Gazette*.

Repeal.

46. Sections 73, 104, 105 and 106 of the Wills and Probate Ordinance (Cap. 57) and the Estate Duty Ordinance (Cap. 208) are hereby repealed.

SCHEDULE A.

SCALE OF RATES OF ESTATE DUTY.

Where the principal value of the Estate						Estate Duty shall be payable at the rate per centum of
Exceeds £	100	and does not exceed	£	1,500	....	£ ½
Do.	1,500	do.	2,500	....	....	1
Do.	2,500	do.	3,000	....	....	1½
Do.	3,000	do.	4,000	....	....	2
Do.	4,000	do.	5,000	....	....	3
Do.	5,000	do.	6,000	....	....	4
Do.	6,000	do.	8,000	....	....	5
Do.	8,000	do.	10,000	....	....	6
Do.	10,000	do.	15,000	....	....	7
Do.	15,000	do.	20,000	....	....	8
Do.	20,000	do.	25,000	....	....	9
Above	25,000	....	....	....	....	10

(a) Where the gross value (without any deduction for debts and funeral expenses) of the property, real and personal, in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed £300 it shall be lawful for the executor of the deceased to pay the fixed estate duty of fifteen shillings, and where the gross value exceeds £300 and does not exceed £500 the fixed estate duty of twenty five shillings.

(b) Where the net value of the property, real and personal, in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed £500, such property, for the purposes of estate duty, shall not be aggregated with any other property, but shall form an estate by itself.

(c) The amount of duty payable on an estate at the rate applicable thereto under the scale of rates of duty shall, where necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the estate exceeds the value on which the highest amount of duty would be so payable at the lower rate.

EXEMPTION.

Any gift which in the opinion of the Commissioner has been made in good faith as part of the normal and reasonable expenditure of the deceased shall not be liable to duty.

SCHEDULE B.
SCALE OF RATES OF SUCCESSION DUTY.

Where the value of any succession	WHERE THE SUCCESSOR IS		
	(i) A husband, a lineal descendant or ancestor of the predecessor.	(ii) A brother or sister or their descendants of the predecessor.	(iii) A person in any other degree or a stranger in blood to the predecessor.
Exceeds £20 but does not exceed £ 500	$\frac{1}{2}$ per centum	2 per centum	5 per centum
Do. £ 500 do. 1,000	1 do.	4 do.	5 do.
Do. £1,000 do. 2,000	$1\frac{1}{2}$ do.	5 do.	10 do.
Do. £2,000 do. 3,000	2 do.	6 do.	10 do.
Do. £3,000 do. 5,000	2 do.	8 do.	10 do.
Do. £5,000 do. 7,000	2 do.	8 do.	15 do.
Do. £7,000 do. 10,000	2 do.	9 do.	15 do.
Above £10,000	2 do.	11 do.	20 do.

(a) Where the net value of the property, real and personal, in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, exceeds £500 the amount of the succession duty payable in respect of the property shall not exceed the amount by which the net value of the property as estimated for the purpose of estate duty exceeds £500.

(b) The amount of succession duty payable on a succession at the rate applicable thereto under the scale of rates of succession duty shall, where necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the succession exceeds the value on which the highest amount of succession duty would be so payable at the lower rate.

(c) For the purpose of ascertaining the "value of any succession" under this schedule the whole interest of each successor in all the real and personal property of the deceased situate outside the Colony as well as the property within the Colony shall be taken into account.

EXEMPTIONS.

(1) Where the successor is a wife of the predecessor ;

(2) Where the net value of the property in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed £500 no succession duty shall be payable in respect of that property.

SCHEDULE C.

(Section 39 (2).)

THE VALUES OF AN ANNUITY OF £100 PER ANNUM, HELD ON A SINGLE LIFE.

Years of Age.	Values.	Years of Age.	Values.	Years of Age.	Values.
	£ s. d.		£ s. d.		£ s. d.
Birth	1,892 8 6	32	1,619 0 6	64	852 9 0
1	1,906 13 0	33	1,605 4 0	65	821 12 6
2	1,919 2 0	34	1,590 9 6	66	790 15 0
3	1,926 8 0	35	1,574 17 6	67	761 19 0
4	1,928 16 0	36	1,558 9 6	68	733 8 6
5	1,926 19 6	37	1,541 10 6	69	705 4 0
6	1,921 12 0	38	1,524 0 0	70	677 9 0
7	1,913 4 6	39	1,506 1 6	71	650 8 0
8	1,902 16 6	40	1,487 10 0	72	623 19 6
9	1,890 19 6	41	1,468 4 0	73	597 7 6
10	1,878 3 0	42	1,447 11 6	74	569 13 0
11	1,864 7 0	43	1,426 2 0	75	541 0 6
12	1,849 12 0	44	1,403 10 0	76	511 9 6
13	1,833 18 6	45	1,379 14 6	77	477 17 0
14	1,817 7 6	46	1,354 16 6	78	444 9 6
15	1,800 8 6	47	1,328 2 6	79	412 9 6
16	1,783 13 0	48	1,300 9 6	80	381 3 0
17	1,767 16 0	49	1,271 19 6	81	350 14 6
18	1,753 5 6	50	1,242 19 6	82	321 14 6
19	1,740 11 0	51	1,213 17 0	83	292 10 0
20	1,729 9 6	52	1,185 14 0	84	263 2 0
21	1,719 17 0	53	1,157 17 6	85	234 18 6
22	1,713 1 0	54	1,130 13 0	86	207 16 0
23	1,706 16 6	55	1,103 18 0	87	184 11 6
24	1,700 11 6	56	1,077 10 0	88	164 17 6
25	1,694 0 0	57	1,051 10 0	89	148 7 0
26	1,686 14 6	58	1,025 10 0	90	133 9 0
27	1,677 5 6	59	999 1 0	91	122 16 0
28	1,667 1 0	60	972 1 0	92	107 7 0
29	1,656 1 0	61	943 15 6	93	93 3 0
30	1,644 7 6	62	914 2 0	94	79 8 6
31	1,632 0 0	63	883 6 0	95	64 11 0

Passed in Council this twenty-fourth day of April, in the year of Our Lord one thousand nine hundred and thirty-one.

J. W. DAY,
Clerk of the Council,