

## No. III.

### An Act to impose Stamp Duties [25th June, 1880.]

STAMP DUTIES.  
(No. 3).  
—

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:—

#### *Preliminary.*

1. This Act shall come into operation on the first day of July Commencement one thousand eight hundred and eighty and may be cited as the "Stamp title and division. Duties Act of 1880" The Parts thereof are arranged as follow—

PART I.—DUTIES ON DEEDS OR INSTRUMENTS.

PART II.—ESTATES OF DECEASED PERSONS.

PART III—MISCELLANEOUS PROVISIONS.

**Interpretation clause.**

2. In the construction and for the purposes of this Act the following words shall have the meanings by this section assigned to them unless it is otherwise provided or there be something in the context repugnant thereto—

- “Administrator”—Any person to whom any letters of administration in the estate of any deceased person shall be granted in this Colony.
- “Affidavit”—Includes Affirmation and Statutory Declaration.
- “Bank”—Any Corporation Society or number of persons carrying on the business of Banking.
- “Banker”—The person managing or administering the affairs of any Bank or branch thereof.
- “Bill of Exchange”—Any ordinary bill of exchange or any draft order cheque letter of credit instrument or writing not payable on demand entitling any person whether or not named therein to payment of money by any other person.
- “Bill of Lading”—Any instrument signed by the master mate or other person in charge of any vessel or by the agent shipping clerk or other person acting as such for such vessel for the conveyance therein of goods wares or merchandise to any place beyond the Colony.
- “Commissioner”—Any person appointed Commissioner of Stamp Duties under this Act.
- “Conveyance”—Any instrument or deed whereby property is vested in any person or transferred or conveyed from one person to another.
- “Draft”—Any draft cheque or order for money payable on demand not being a bill of exchange or otherwise herein specified.
- “Estate”—Real or personal property.
- “Executor”—Any person to whom probate of the will of any deceased person shall be granted in this Colony.
- “Executed”—Signed and completed whether or not by sealing or any process customary or required by law in any particular case.
- “Execution”—The form or process of being executed.
- “Government”—The Governor with the advice of the Executive Council.
- “Instrument”—Any written or printed deed or document.
- “Issue”—Delivery of a promissory-note or bill of exchange by the maker or acceptor to the payee thereof.
- “Lease”—Lease or promise of or agreement for a lease.
- “Marketable Security”—Any security capable of being sold in any stock market in the Colony of New South Wales.
- “Material”—Any sort of material commonly used for writing or printing upon which words or figures can be expressed.
- “Minister”—Any Minister charged with the administration of this Act.
- “Money”—Any sum in British Foreign or Colonial currency.
- “Policy”—Any insurance or contract whether of insurance against loss by fire or upon or concerning any vessel or goods for any voyage or period whether the same be issued singly or in duplicate or otherwise.
- “Promissory-note”—Any ordinary promissory-note or any debenture issued by any public company corporation or society in the Colony or any debenture issued out of the Colony if negotiated therein.
- “Regulations”—Regulations under this Act.
- “Settlement”—Any contract or agreement (whether voluntary or upon any good or valuable consideration other than a *bona fide*

*Stamp Duties (No. 3).*

*fide* pecuniary consideration) wherby any property real or personal shall be settled or agreed to be settled or containing any trusts or dispositions to take effect after the death of any person.

“Stamp”—A stamp impressed by means of a die or an adhesive stamp.

“Stamped”—Impressed with stamps by means of a die or having an adhesive stamp affixed according to this Act.

“Stock”—Any share in stocks or funds of Great Britain or of any Foreign or Colonial State or Government or in the capital stock or funded debt of any Company Corporation or Society British Foreign or Colonial.

“Unstamped”—Either not stamped at all or insufficiently stamped or not duly stamped according to the law in force at the time of execution.

“Writing”—Any mode or process by which words or figures can be expressed upon material.

3. From and after the commencement of this Act and subject <sup>Stamp duties to be levied.</sup> to the exemptions contained in the Schedules to this Act there shall be charged levied collected and paid for the use of Her Majesty and to form part of the Consolidated Revenue Fund for and in respect of the several instruments and matters described or mentioned in this Act and in the several Schedules hereto the several duties or sums of money and at the several rates specified herein or set down in figures against the same respectively in the said Schedules. Any such duties shall be denoted in stamps upon the material upon which any such instrument or matter shall be written or expressed.

4. The Government may from time to time appoint a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act. And may also appoint such officers as may be deemed necessary for the due execution of this Act. And the said person shall give such security for the due discharge of the duties hereby reposed in them as the Government may direct. <sup>Power to appoint Commissioner and Officers.</sup>

5. The Minister may appoint any person a distributor of stamps throughout the Colony who shall be remunerated for his services by a commission upon the value of stamps purchased by him for disposal. The Minister shall also provide for denoting the several duties hereby imposed such stamps or dies as may be required for the purposes of this Act and do any other Act which may be necessary for effectually collecting the said duties. <sup>Power to appoint stamp distributors.</sup> <sup>Stamps to be provided.</sup>

6. All Stamp duties which may from time to time be chargeable by law upon any instruments shall be denoted and paid in accordance with the provisions of this Act and the regulations. <sup>Stamp duties to be denoted &c. in accordance with Act and regulations.</sup>

7. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act. <sup>Schedules part of Act.</sup>

## PART I.

## AS TO DUTIES ON DEEDS AND INSTRUMENTS.

## General Regulations.

Stamp to appear on  
face of instrument.Consideration money  
&c. to be truly set  
forth.Value of considera-  
tion to be calculated  
in British currency.If in stock how to be  
calculated.Commissioner may  
denote duty as paid.Stamping documents  
after execution.No instrument  
admissible as  
evidence except in  
criminal proceedings  
or unless duly  
stamped.Provision as to  
unstamped instru-  
ments at any trial  
not criminal.

8. Every instrument subject under this Act to be stamped shall be written in such manner and every instrument partly or wholly written before being stamped shall be so stamped that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument written upon the same piece of material.

9. Every fact and circumstance affecting the liability of any instrument to duty or the amount of the duty with which any instrument shall be chargeable under this Act shall be fully and truly set forth in such instrument and every person who with intent to defraud Her Majesty shall execute any instrument in which all the said facts and circumstances shall not be fully and truly set forth or who being employed or concerned in or about the preparation of any instrument shall with the like intent neglect or omit fully and truly to set forth therein all the said facts and circumstances shall forfeit the sum of fifty pounds.

10. In the case of an instrument chargeable under this Act with duty in respect of any money in any foreign or Colonial currency such duty shall be calculated in British currency according to the current rate of exchange on the day of the date of the instrument.

11. Where an instrument shall be chargeable with duty in respect of any stock or of any marketable security such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

12. Whenever the duty with which an instrument may be chargeable under this Act shall depend in any manner upon the duty paid upon another instrument the payment of such last-mentioned duty on production of both the instruments shall be denoted in such manner as the Commissioner shall think fit upon such first-mentioned instrument.

13. (1.) Subject to the provisions of this Act any unstamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a sum by way of fine at the rate of twenty pounds per centum on the value of the stamps to be affixed.

And the payment of any fine shall be denoted on the instrument by a particular stamp.

(2.) Provided as follows:—

(a.) Any unstamped instrument which shall have been first executed at any place out of the Colony of New South Wales may be stamped at any time within two months after it shall be first received in the said Colony on payment of the unpaid duty only.

(b.) The Commissioner may if he think fit at any time within twelve months after the first execution of any instrument remit the fine or fines or any part thereof.

(c.) That no fine as aforesaid shall be charged if the instrument be stamped within one month after execution.

14. Unless otherwise herein expressly enacted no unstamped instrument executed in this Colony after the passing of this Act or relating wheresoever executed to any property situate or to any matter or thing done or to be done in this Colony shall except in criminal proceedings be admissible in evidence or available or effectual for any purpose whatsoever in law or Equity. Provided that upon the production of any such instrument as evidence at the trial of any cause not being a criminal proceeding the officer of the Court whose duty it

*Stamp Duties (No. 3).*

it is to read such instrument shall call the attention of the Judge to any omission or insufficiency of the stamp and the instrument if unstamped or not sufficiently stamped shall not be received in evidence until the whole or the deficiency of the stamp duty and the fine imposed by this act shall have been paid and such officer of the Court shall upon payment to him of such stamp duty and fine give a receipt for the amount of the same and thereupon such instrument shall be admissible in evidence saving all just exceptions on other grounds and an entry of the fact of such payment and of the amount thereof shall be made in a book kept by such officer who shall at the end of each sittings or assizes duly make a return to the Commissioner of any moneys which he has so received by way of duty or fine distinguishing between such moneys and stating the name of the cause and of the parties from whom he received such moneys and the date and description of the instrument for the purpose of identifying the same and he shall pay over the said moneys to the Commissioner. And in case such officer shall neglect or refuse to furnish such account or to pay over any of the moneys so received by him he shall be liable to be proceeded against in the manner directed by this Act and the Commissioner shall upon request and production of the receipt hereinbefore mentioned cause such instrument to be stamped with the proper stamp in respect of the sums so paid as aforesaid.

15. Subject to Regulations any Commissioner may upon being required by any person assess upon any instrument or material the duty payable under this Act and cause it to be stamped accordingly. For removing doubts as to the sufficiency or insufficiency of stamp duty paid on instruments. Provided that any instrument upon which the duty shall have been assessed by the Commissioner shall not be stamped otherwise than in accordance with such assessment.

16. (1.) Any person dissatisfied with the assessment of a Commissioner may within fourteen days after the date thereof and on payment of duty in conformity therewith appeal against such assessment to the Minister who may confirm or modify such assessment and if such assessment be not confirmed the amount of duty to be ultimately retained shall be that fixed by the Minister and the difference shall be refunded to the appellant. And if such person be still dissatisfied he may within twenty-one days after the Minister's decision is communicated to him appeal to the Supreme Court and may for that purpose require the Commissioner to state and sign a case setting forth the grounds upon which his assessment was made. Provided always that any person dissatisfied with such assessment may appeal to the Supreme Court in the first instance without any intermediate appeal to the Minister.

(2.) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant upon whose application such case may be set down for hearing in the Supreme Court.

(3.) Upon the hearing of such case (due notice of which shall be given to the Commissioner) the Court shall determine the question submitted and assess the duty chargeable under this Act and also decide the question of costs.

(4.) If it be decided by the Court that the assessment of the Commissioner is erroneous any excess of duty which may have been paid in conformity with such erroneous assessment together with any penalty which may have been paid in consequence thereof shall be ordered by the Court to be repaid to the appellant.

(5.) For the purposes of this section the Court may be holden before one Judge only.

17. In any case of application to the Commissioner with reference to any instrument the Commissioner may require an abstract of the instrument and also such evidence as he may deem necessary in order to show whether every fact and circumstance affecting the liability of the instrument

Abstract of instrument to be furnished.

*Stamp Duties (No. 3).*

instrument to duty or the amount of the duty chargeable thereon has been fully and truly set forth and may refuse to proceed upon any such application until such abstract and evidence be furnished accordingly.

Impressed stamps to be used.

Mode of cancelling adhesive stamps.

Penalty on fraudulent removal or second use of adhesive stamp.

Instruments not to be registered unless duly stamped.

The Supreme Court to enforce payment of any moneys received for duties.

Adhesive stamp may be used for agreement.

Bank notes exempt by composition.

Penalty for issuing unstamped Bank notes.

18. Except where express provision is made to the contrary all duties shall be denoted by impressed stamps only.

19. Any instrument the duty upon which is required or permitted by law to be denoted by an adhesive stamp shall not be deemed duly stamped unless the person affixing such stamp shall cancel the same by writing or stamping with a die on or across each stamp his name or initials or the name or initials of his firm together with the true date of such cancellation and in case he shall wilfully neglect or refuse duly and effectually to do so he shall be liable to a penalty not exceeding ten pounds.

20. Any person who shall—

(1.) Fraudulently remove or cause to be removed from any instrument any adhesive stamp or fraudulently affix to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again or who shall knowingly—

(2.) Sell or offer for sale or utter any adhesive stamp which has been removed from any instrument or utter any instrument having thereon any adhesive stamp which shall to his knowledge have been so removed as aforesaid or who shall—

(3.) Practise or be concerned in any fraudulent act contrivance or device with intent to evade any duty under this Act—shall be liable to a penalty (beside any other penalty to which he may be liable) not exceeding twenty pounds in addition to the value of the duty evaded or sought to be evaded.

21. No unstamped instrument required by this Act to be stamped shall be registered or capable of being registered in any Court or office and any officer knowingly registering or permitting to be registered any such instrument shall be liable to a penalty not exceeding five pounds for each offence.

22. The Supreme Court may upon application on behalf of a Commissioner grant a rule requiring any person who shall have received money payable by way of duty or penalty under this Act or the executor or administrator of such person to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person or executor or administrator and why the same should not be forthwith paid to the said Commissioner. And the Court may make absolute such rule and enforce by attachment or otherwise the payment of any such duty or sum of money as may appear to be due together with costs.

#### SPECIAL REGULATIONS.

##### *As to Agreements.*

23. The duty of one shilling upon an agreement may be denoted by an adhesive stamp which shall be cancelled by the person by whom the agreement is first executed.

##### *As to Bank notes Bills of Exchange and Promissory-notes.*

24. There shall be payable quarterly to the Commissioner by every Bank an annual composition at the rate of forty shillings for every one hundred pounds upon the amount of notes stated to be in circulation in the return made by such Bank pursuant to the Act fourth Victoria number thirteen. And any Bank note payable on demand issued unstamped by any banker who has duly paid such composition may be from time to time re-issued without being liable to stamp duty.

25. Any banker not having paid such composition who shall issue or cause or permit to be issued any Bank note not duly stamped shall be liable to a penalty not exceeding fifty pounds.

## Stamp Duties (No. 3).

26. The *ad valorem* duties upon bills of exchange and promissory-notes drawn or made out of the Colony are to be denoted by adhesive stamps and every holder of any unstamped bill of exchange or promissory-note drawn out of the Colony shall before he presents it for payment or indorses transfers or in any manner uses negotiates or pays the same cause it to be duly stamped. Provided that if at the time when any such bill or note shall come into the hands of any *bona fide* holder thereof there be affixed thereto an adhesive stamp appearing to be duly cancelled such stamp shall so far as relates to such holder be deemed to be duly cancelled although it may not appear to have been so affixed or cancelled by the proper person. Provided also that if at the time when any such bill or note shall come into the hands of any *bona fide* holder thereof there be affixed thereto an adhesive stamp not duly cancelled it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed and upon his so doing such bill or note shall be deemed duly stamped and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed. Provided that nothing herein shall relieve any person from any penalty under this Act.

Adhesive stamp to be used for foreign bills.

Holder to cancel stamps.

27. A bill of exchange or promissory-note purporting to be drawn or made out of the Colony shall for the purposes of this Act be deemed to have been so drawn or made although it may in fact have been drawn or made within the said Colony.

Document deemed to be drawn as it may purport.

28. Every person who shall issue indorse transfer use negotiate present for payment or pay any bill of exchange or promissory-note liable to duty and not duly stamped shall be liable to a penalty not exceeding twenty pounds and every person who shall take or receive from any other person any bill of exchange or promissory-note not duly stamped either in payment or as a security or by purchase or otherwise without causing the same to be duly stamped within fourteen days after receiving it shall be liable to a penalty not exceeding twenty pounds and shall not be entitled to recover thereon or to make the same available for any purpose whatever until the same shall be duly stamped. Provided that no bill of exchange or promissory-note shall be liable to duty unless drawn or made after the passing of this Act.

Penalty for unstamped bill and note.

29. Any number of bills of exchange or promissory-notes drawn in or forming part of one set or series according to the custom of merchants or bankers shall be held to be one such bill or note for the purposes of this Act. Provided that one of the number be duly stamped.

Bills drawn in sets how to be stamped.

30. The duty of one penny on a draft payable on demand may be denoted by an adhesive stamp to be affixed thereto by the maker or holder thereof.

Duty on draft may be denoted by adhesive stamp.

## As to Bills of Lading.

31. A bill of lading shall not be stamped after the execution thereof and every person who shall make or execute any bill of lading not duly stamped shall forfeit a sum not exceeding fifty pounds.

Bills of Lading not to be stamped after execution.

32. No master or mate of any vessel and no agent or shipping clerk or other person acting for any vessel shall be bound to sign any bill of lading or instrument answering the purpose of a bill of lading for the conveyance of merchandise of any kind to any place beyond the Colony unless it be duly stamped.

No master or mate to sign Bill of Lading unless stamped.

## As to Conveyances on Sale.

33. (1.) Where the consideration or any part of the consideration for a conveyance on sale shall consist of any stock or marketable security such conveyance shall be charged with *ad valorem* duty in respect of the value of such stock or security.

If in stock &c. how to be calculated.

## Stamp Duties (No. 3).

(2.) Where the consideration or any part of the consideration for a conveyance on sale shall consist of any security not being a marketable security such conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security.

Where property subject to debt duty to be charged on such debt.

Property sold at one price conveyed by separate deeds.

Where sold to several at one price and conveyed in parts by separate deeds.

Sub-sales conveyance by original seller to sub-purchaser.

To several sub-purchasers in parts.

Conveyance by original seller to sub-purchaser where not to be charged.

Parties may elect which is to be the principal instrument.

Lease made in conformity with agreement how to be charged.

34. Where any property shall be conveyed to any person in consideration wholly or in part of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or stock whether being or constituting a charge or encumbrance upon the property or not such debt money or stock shall be deemed the whole or part as the case may be of the consideration in respect whereof the conveyance shall be chargeable with *ad valorem* duty.

35. (1.) Where any property shall have been contracted to be sold for one consideration for the whole and shall be conveyed to the purchaser in separate parts or parcels by different instruments the consideration shall be apportioned in such manner as the parties shall think fit so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

(2.) Where any property contracted to be purchased for one consideration for the whole by two or more persons jointly or by any person for himself and others or wholly for others shall be conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

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

(4.) Where a person having contracted for the purchase of any property but not having obtained a conveyance shall contract to sell the whole or any part or parts thereof to any other person or persons and the property shall be in consequence conveyed by the original seller to different persons in parts or parcels the conveyance of each part or parcel shall be charged with *ad valorem* duty in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

(5.) Where a sub-purchaser shall take an actual conveyance of the interest of the person immediately selling to him which is chargeable with *ad valorem* duty in respect of the consideration moving from him and shall be duly stamped accordingly any conveyance to be afterwards made to him of the same property by the original seller shall be exempt from the said *ad valorem* duty and chargeable only with the duty to which it may be liable under any general description but such last-mentioned duty shall not exceed the *ad valorem* duty.

36. Where there are several instruments of conveyance for completing the purchaser's title to the property sold the principal instrument of conveyance only shall be charged with *ad valorem* duty and the other instruments shall be respectively charged with such other duty as they may be liable to but such last-mentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument.

## As to Leases &amp;c.

37. (1.) An agreement for a lease or with respect to the letting of any lands tenements or heritable subjects for any term shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement. (2.)

*Stamp Duties (No. 3).*

(2.) A lease made subsequently to and in conformity with such an agreement duly stamped is to be charged with the duty of two shillings and sixpence only.

38. (1.) Where the consideration or any part of the consideration for which any lease shall be granted or agreed to be granted does not consist of money but shall consist of any produce or other goods the value of such produce or goods shall be deemed a consideration in respect of which the lease or agreement shall be chargeable with *ad valorem* duty and where it is stipulated that the value of such produce or goods shall amount at least to or shall not exceed a given sum or where the lessee shall be specially charged with or has the option of paying after any permanent rate of conversion the value of such produce or goods for the purpose of assessing the *ad valorem* duty shall be estimated at such given sum or according to such permanent rate.

(2.) A lease or agreement made either entirely or partially for any such consideration if it shall contain a statement of the value of such consideration and shall be stamped in accordance with such statement shall so far as regards the subject matter of such statement be deemed duly stamped unless or until it is otherwise shown that such statement is incorrect and that it is in fact not duly stamped.

39. (1.) A lease or agreement for a lease or with respect to any letting shall not be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent thereby reserved or agreed to be reserved or made payable or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same subject matter.

(2.) No lease made for any consideration or considerations in respect whereof it shall be chargeable with *ad valorem* duty and in further consideration either of a covenant by the lessee to make or of his having previously made any substantial improvement of or addition to the property demised to him or of any covenant relating to the matter of the lease shall be charged with any duty in respect of such further consideration.

(3.) No lease for a life or lives not exceeding three or for a term of years determinable with a life or lives not exceeding three shall be charged with any higher duty than one pound.

*As to Policies of Insurance.*

40. A policy or other instrument of insurance which shall be made or signed out of the Colony of New South Wales by or on behalf of any person carrying on the business of insurance within the said Colony by which according to any stipulation agreement or understanding expressed or implied any loss or damage or any sum of money shall be payable or recoverable in the said Colony upon the happening of any contingency whatever shall be charged with the same duty as is chargeable on policies made and signed within the said Colony Provided such policy or instrument shall be brought to the said Commissioner for the purpose of being stamped within two calendar months next after the same shall have been received in the said Colony and upon proof of that fact to the said Commissioner he shall cause such policy or instrument to be duly stamped on payment of the duties chargeable thereon.

41. Every person who shall—

(1.) Receive or take credit for any premium or consideration for any contract of insurance and shall not within one month after receiving or taking credit for such premium or consideration make out and execute a duly stamped policy of such insurance

(2.)

Penalty for not making out &c. duly stamped policy.

*Stamp Duties (No. 3).*

(2.) Make execute or deliver out or pay or allow in account or agree to pay or allow in account any money upon or in respect of any policy which shall not be duly stamped shall be liable to a penalty not exceeding twenty pounds.

Duties may be denoted by adhesive stamps.

42. (1.) The duties imposed by this Act upon policies of insurance may be denoted by adhesive stamps or partly by adhesive and partly by impressed stamps.

(2.) When the whole or any part of the duty upon a policy of insurance shall be denoted by an adhesive stamp such adhesive stamp shall be cancelled by the person by whom the policy shall be first signed and

(3.) In default of such cancellation the person issuing such policy shall be liable to a penalty not exceeding twenty pounds.

*As to Receipts.*

Interpretation of receipt.

43. The term "Receipt" shall mean and include any note memorandum or writing whatsoever whereby any money amounting to two pounds or upwards or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards shall be acknowledged to have been settled satisfied or discharged or which shall signify or import any such acknowledgement and whether the same shall or shall not be signed with the name of any person.

Division of profits carried to credit to be deemed a receipt.

44. When on any division of profits made by any banking company the banker shall carry to the credit of any depositor or shareholder therein the amount payable to him on such division of profits such transaction shall be considered a receipt liable to the duty on receipts under this Act and the said banker shall make a sworn return of every such transaction within one week after the same shall have taken place and pay the duty thereon according to the rates imposed under the head of Receipt in default of so doing he shall be liable to a penalty not exceeding five hundred pounds.

Duty may be denoted by adhesive stamp.

45. The duty upon a receipt may be denoted by an adhesive stamp which shall be cancelled by the person by whom the receipt shall be given before he delivers it out of his hands.

Penalty for giving unstamped receipt.

46. If any person shall—

- (1.) Give any receipt liable to duty and not duly stamped
- (2.) In any case where a receipt would be liable to duty refuse to give a receipt duly stamped
- (3.) Upon a payment to the amount of two pounds or upwards give a receipt for a sum not amounting to two pounds or separate or divide the amount paid with intent to evade the duty

he shall pay a penalty not exceeding ten pounds Provided that a demand for any such receipt shall not in anywise affect the validity of a tender which would be otherwise legal.

*As to Transfers of Pastoral Runs or Stations.*

Assessment of stamp duties on transfers of pastoral runs.

47. For the purpose of assessing the amount of stamp duty payable upon the instrument of transfer of any run or interest in a run held under lease or promise of a lease from the Crown the Commissioner may require the person tendering such instrument for the purpose of being stamped to tender at the same time a declaration of the fair and reasonable market value of the interest intended to be transferred such declaration to be duly made before a Magistrate of the Territory or a Commissioner for Affidavits.

## PART II.

## DUTIES ON ESTATES OF DECEASED PERSONS.

48. The duties to be levied collected and paid as aforesaid upon the estates of deceased persons shall be according to the duties mentioned in the Second Schedule to this Act and such duties shall be charged and chargeable upon and in respect of all estate whether real or personal which belonged to any testator or intestate dying after the commencement of this Act. And every person who shall take possession of and in any manner administer any part of such estate of any person deceased without obtaining probate of the will or letters of administration within six calendar months after the decease of such person or two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration (if there be any such) which shall not be ended within four calendar months after the decease of such person shall incur a penalty not exceeding one hundred pounds and also a further penalty of ten pounds per centum on the amount of stamp duty payable on the probate or letters of administration. And such penalties shall be recovered and enforced in manner herein provided. Provided that such penalties shall not be incurred when such estate shall not exceed two hundred pounds in value. Provided that no duty shall be charged on the taking out of any second probate or administration if the proper amount of duty has been duly paid on the first taking out the same.

49. No Judge of the Supreme Court shall grant probate of the will or letters of administration of the goods chattels credits and effects of any person deceased after the commencement of this Act unless the applicant for such probate or letters shall lodge with his application an affidavit that to the best of his knowledge and belief the estate of the deceased exclusive of what he was possessed of or entitled to as a trustee and after deducting the debts due and owing by the said deceased but including all the real estate and all estates for years of the deceased are under the value of a certain sum to be therein specified. And the Prothonotary of the Supreme Court shall transmit to the Commissioner every such affidavit together with a copy of the will or letters of administration to which it relates under a penalty not exceeding fifty pounds for any neglect therein and upon the sum specified in such affidavit the duty shall be assessed according to the rates specified in the Second Schedule hereto and such probate or letters stamped accordingly.

50. A like duty shall be paid in respect to the estates of intestates deceased after the passing of this Act for which an order to collect shall be granted under the Act eleventh Victoria number twenty-four or any Act amending the same as by this Act is required to be paid by an administrator. And no Judge shall pass the accounts of the Curator of Intestate Estates in respect to the estate of any such intestate unless the amount of duty chargeable on such estate (as if administration had been taken out in respect thereto) shall have been paid by such Curator and a receipt for such amount signed by the Commissioner be produced by such Curator. Provided that no administration duty shall be chargeable in respect of any such estate previously collected by such Curator.

51. Any duty payable under this Act by any executor or administrator shall be deemed to be a debt of the testator or intestate to Her Majesty and shall be payable out of his personal estate. And if the personal estate be insufficient to pay such duty the executor or administrator or any person interested may apply to the Supreme Court which may order that a sufficient part of the real estate may be sold to pay the said

Duties to be levied on estates of deceased persons and penalty for not taking out probate &c.

Affidavit of value to be lodged by applicants for probate or letters of administration.

As to estates administered by Curator of Intestate Estates.

Duties payable out of personal estate.

*Stamp Duties (No. 3).*

Deduction of duty  
from property  
devised.

said duty. And every executor or administrator may deduct from any property devised or bequeathed to any person an amount equal to the duty thereon calculated at the same rate as is payable upon the estate under this Act unless the testator shall have made a different disposition as to the payment of the said duty in his will.

Probates &c. not to  
issue until duty paid.

52. No probate or letters of administration shall issue from the Prothonotary's Office until the duty under this Act shall have been paid or security given for the same and the probate or letters of administration duly stamped.

Settlement of pro-  
perty taking effect  
after death of settlor.

53. Within six months after the death of any person who shall have executed a settlement containing any trust to take effect after his death or within such further time as the Commissioner may allow notice of such settlement shall be lodged by the trustee thereof or by some person interested thereunder together with a declaration specifying the property thereby settled and the value thereof and duty shall thereupon be payable on such value at the rates specified in the Second Schedule hereto and in case such notice and declaration shall not be lodged and the duty paid within six months or such further time as the Commissioner may allow the Commissioner or any person interested may apply to the Supreme Court which may order that a sufficient part of the property included in such settlement be sold and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon.

Court may make  
vesting orders.

54. Whenever any order shall have been made for the sale of any lands under this Act every person seised or possessed of such lands or entitled to a contingent interest therein shall be deemed to be so seised possessed or entitled upon a trust within the meaning of the "Trustee Act 1852" And the Supreme Court may make an order vesting such lands or any part thereof either in any purchaser or in such other person as the Court shall direct and every such order shall have the same effect as if such person so seised possessed or entitled had been free from all disability and had duly executed all proper conveyances and assignments.

Duty payable on  
property included in  
conveyance for  
purposes of evasion.

55. Upon the death of any person who shall hereafter make any conveyance or gift of any estate with intent to evade the payment of duty under this Act such property shall be deemed part of his estate for the purposes of this Act And the payment of the duty upon the value of such property may be enforced in the same way as if such person had bequeathed or devised the said property to the person to whom the same may have been conveyed or given And any conveyance or gift of property which hereafter may be made to take effect upon the death of the person making the same shall be deemed to have been made with intent to evade the payment of duty under this Act And any property being the subject matter of a *donatio mortis causá* shall upon the death of the person making such *donatio mortis causá* be deemed part of his property for the purposes of this Act And duty shall be paid upon it and payment of such duty may be enforced in the same way as against any other property of or to which such person shall have died seised possessed or entitled.

## PART III.

## MISCELLANEOUS PROVISIONS.

56. Any single stamp may be used to denote the total amount of duty and two or more stamps may be used to denote any one duty and all instruments stamped with one two or more stamps for denoting the amount of duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps.

57. Any person required under this Act to deliver any account who shall make default in so doing shall be liable upon application to the Supreme Court by the Commissioner or any person by him duly authorized to be sued by writ of summons in such form as the Judges of the said Court shall direct commanding the party so in default to deliver such account and to pay all costs incurred in consequence of such Default up to the time of such delivery within such period as may be appointed in the writ or to show cause to the contrary and on cause being shown such order shall be made as shall be just.

58. Every person delivering any account or estimate of property under this Act shall if required by the Commissioner produce before him such books and documents in the custody or control of such person so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the duty payable thereon and the Commissioner may without payment of any fee inspect and take copies of any public book and any Commissioner or other officer who shall disclose the same or the contents of any document or book to any person other than for the purpose of this Act shall be liable to a penalty not exceeding one hundred pounds.

59. The Commissioner shall enter and keep on record in a book every payment of duty made under the Second Schedule hereto and shall give a receipt for such duty in such form as shall be provided by regulations and shall from time to time upon application for any reasonable purpose deliver to any person interested in any property affected thereby a certificate of such payment.

60. Any person making or assisting in making any false statement or any fraudulent alterations in any statement or document required under this Act with intent to evade the payment of duty shall be deemed guilty of a misdemeanour and on conviction thereof shall be liable to imprisonment for any period not exceeding three years and to a fine not exceeding one hundred pounds.

61. Any person who shall do or cause to be done or knowingly assist in doing any of the Acts following that is to say:—

- (1.) Forge a die or stamp
- (2.) Impress any material with a forged die
- (3.) Cut tear or in any way remove from any material any stamp with intent to make fraudulent use of such stamp or of any part thereof
- (4.) Mutilate any stamp with intent to make fraudulent use of any part thereof
- (5.) Fraudulently fix or place upon any material or upon any stamp any stamp or part of a stamp which has been cut torn or in any way removed from any other material or out of or from any other stamp
- (6.) Erase or otherwise remove from any stamped material any name sum date or other matter or thing whatsoever thereon written with the intent that any fraudulent use should be made of the stamp upon such material
- (7.) Knowingly sell or expose for sale or utter or use any forged stamp

(8.)

One stamp may be used in place of many and vice versa.

Proceeding if return not made by any accountable party.

Accounting party to verify his account.

Books to be kept and receipts given.

Persons fraudulently mis-stating property or debts.

Penalties for fraudulent acts.

*Stamp Duties (No. 3).*

(8.) Knowingly and without lawful excuse (the proof of which lawful excuse lies on the person accused) have in possession any forged die or stamp or any stamp or part of a stamp which has been fraudulently cut torn or otherwise removed from any material or any stamp which has been fraudulently mutilated or any stamped material out of which any name sum date or other matter or thing has been fraudulently erased or otherwise removed.

shall be guilty of felony and liable to be sentenced to hard labour on the roads or other public works of the Colony or to be imprisoned with or without hard labour for any term not exceeding seven years.

Transfer of shares to be stamped.

62. Every person who shall receive any transfer of any shares not duly stamped without causing the same to be duly stamped within one week after receiving the same shall be liable to a penalty not exceeding ten pounds.

Affidavits and penalty for false oath.

63. Every affidavit required by this Act shall be made before a Justice of the Peace or a Commissioner for Affidavits. And any person who shall knowingly and wilfully make a false oath or statement concerning any matter in this Act shall be liable to the same punishment as for wilful and corrupt perjury.

Courts in suits for administration of property to provide for payment of duty.

64. Whenever any suit shall be pending in any Court for the administration of any property chargeable with duty under this Act such Court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the Court.

Recovery of penalties.

65. Any penalty incurred under this Act may be recovered in a summary way before any two Justices of the Peace or by action of debt in the Supreme Court in the name of the Attorney General and with costs in either case.

Allowance in case of stamps becoming useless.

66. Any person possessed of impressed stamps or stamped material rendered useless by being inadvertently spoiled may upon application to the Commissioner be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

Power to make regulations and forms.

67. The Government may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act and such regulations and forms when published in the *Gazette* shall have the force of law. Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament be sitting and if not then within twenty-one days after the commencement of the next Session.

## Stamp Duties (No. 3).

## SCHEDULES TO WHICH THIS ACT REFERS.

## SCHEDULE I.

CONTAINING THE DUTIES ON DEEDS OR OTHER INSTRUMENTS RELATING TO TRANSACTIONS BETWEEN LIVING PERSONS.

	£ s. d.
AGREEMENT not under seal..... And see section 23.	0 1 0
BANK NOTE. An Annual Composition to be paid by Banking Companies in lieu of duties on promissory-notes payable on demand issued by them— For every £100 and also for the fractional part of £100 of the average annual amount of such notes in circulation as certified under 4 Vic. No. 13..... And see sections 24 25.	2 0 0
BILL OF EXCHANGE OR PROMISSORY-NOTE— For every £50 and also for any fractional part of £50..... And see sections 26 27 28 29.	0 0 6
BILL OF LADING— For every bill of lading or copy thereof .....	0 0 6
CONVEYANCE OR TRANSFER on sale of any share or shares in the stock and funds of any Corporation Company or Society whatever in New South Wales— For every £10 and also for any fractional part of £10 of the consideration money therein expressed..... And see section 62.	0 0 6
CONVEYANCE OR TRANSFER on sale of any property (except such stock and funds as aforesaid)— Where the amount or value of the consideration for the sale does not exceed £50..... Exceeds £50 and does not exceed £100..... For every £100 and also for any fractional part of £100 of such amount or value.....	0 5 0 0 10 0 0 10 0
CONVEYANCE of any other kind not before charged .....	1 0 0
And see sections 33 34 35 36.	
DRAFT—payable on demand. (See section 30).....	0 0 1
DEED of any kind whatever not otherwise charged in this Schedule .....	1 0 0
LEASE— (1.) For any definite term or for an indefinite term of any lands tenements or heritable subjects— Where the consideration or any part of the consideration moving either to the lessor or to any other person shall consist of any money stock or security— In respect of such consideration..... Where the consideration or any part of the consideration shall be any rent— In respect of such consideration— For every sum not exceeding £50 per annum..... And for every £50 or fractional part of £50 per annum .....	0 2 6 0 2 6 1 0 0
(2.) Of any other kind whatsoever .....	The same duty as for a conveyance on a sale for the same consideration.
And see sections 37 38 39.	
MEMORANDUM of Transfer under the Act 26 Victoria No. 9—	The same duty as for a conveyance for the sale of lands for a like sum the consideration of such transfer.
POLICY for or against lost by Fire— For every £100 and also for every fractional part of £100 insured for any term or period exceeding six calendar months .....	0 0 6
And not exceeding six months.....	0 0 3
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term.....	0 0 3
POLICY for any voyage or period— For every £100 and also for any fractional part of £100 so insured On every renewal or continuance thereof for every £100 or fractional part of £100.....	0 0 3 0 0 3
	POLICY

## Stamp Duties (No. 3).

	£ s. d.
POLICY not otherwise specified—	
For every £100 and for every fractional part of £100 insured ...	0 1 0
And see sections 40 to 42.	
RECEIPT given for or upon the payment of any sum of money amounting to £2 and upwards.....	0 0 2
TRANSFER OF SHARES. (See Conveyance.)	
TRANSFER of any run or station held under lease or promise of lease from the Crown or of any interest therein where the declared value of the said run or station or interest or the value thereof assessed as in this Act provided shall not exceed £100...	0 10 0
And where such value shall exceed £100 then for every £100 and any fractional part of £100 .....	0 10 0
And see section 47.	

## EXEMPTIONS.

*Any agreement or memorandum for the hire of any labourer artificer manufacturer or menial servant.*

*Any agreement or memorandum made for or relating to the sale of any goods wares or merchandise.*

*Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the Colony of New South Wales.*

*Any Debenture or Treasury Bill issued by the Government of New South Wales.*

*Any draft or order for the payment of money issued by any duly authorized officer of the Government on account of the Public Service.*

*Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.*

*Any instrument relating to the service of an apprentice clerk or servant.*

*Any Customs bond.*

*Any Administration bond.*

*Any bail bond.*

*Any bond to the Crown for the safe custody of an insane person.*

*Any bond on appointment of a special bailiff.*

*Any mortgage of real property or mortgage given by way of bill of sale or otherwise of live stock goods chattels or effects or personal estate generally and any transfer assignment release re-conveyance or discharge thereof and every receipt indorsed on either or any of said documents for the consideration thereof.*

*Any preferable lien under the Act 11 Victoria No. 4.*

*Any lien on crops under the Act 26 Victoria No. 10.*

*Any policy of insurance on life or on any public hospital or charitable institution.*

*Any policy of insurance on the tools or implements of work or labour used by any working mechanic artificer handcraftsman or labourer by a separate policy in a distinct sum.*

*Any policy whereby any Insurance Company or underwriter or association of underwriters may effect an insurance or transaction the original policy representing which may have already contributed to the Stamp Duty imposed on policies. Provided that the fact of such policy being a re-insurance policy shall be expressed on the face thereof.*

*Any receipt given for or upon the payment of money to or for the use of Her Majesty.*

*Any acknowledgment by any banker of the receipt of any bill of exchange or promissory-note for the purpose of being presented for acceptance or payment.*

*Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any Banking or Public Company.*

*Any acknowledgment or receipt given by any labourer artificer or workman for or on account of wages received by him.*

*Any receipt written upon or given for a bill of exchange or promissory-note duly stamped.*

*Any receipt indorsed or otherwise written upon or contained in any instrument liable to stamp duty and duly stamped acknowledging the receipt of the consideration money therein expressed.*

*Any receipt given by depositors on receiving deposits from any Savings Bank.*

*Any acknowledgment given for money deposited in any Bank to be accounted for. Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any Bank on any division of profits made by such Bank or for or in respect of any dividend from any Joint Stock or other Company on the same being deposited by any person to the credit of any other person in any Bank or for or in respect of any sum paid to the credit of any person in any Bank for rent or interest by any other person or for or in respect of any sum deposited which would be liable to duty if paid directly by any person to any other person.*

*Any receipt given in anticipation of a Bill of Lading and not to be used in lieu thereof.*

*Any instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment created by a previous settlement duly stamped in respect of the same property or by will where probate duty has been paid in respect of the same property as personal estate.*

*Any instrument for the sale transfer or other disposition of any ship or vessel or any part interest share or property of or in any ship or vessel.*

And

## (Consolidated Fund) Appropriation.

*And any copy of rules or power warrant or letter of attorney granted by any trustee of any Friendly Society within the meaning of Part III of the "Friendly Societies Act of 1873" for the transfer of any share in the Colonial Funds or Debentures standing in the name of such trustee or any order or receipt for money contributed to or received from the funds of any such Society by any person liable or entitled to pay or receive the same by virtue of the rules thereof or any bond to be given to or on account of any such Society or by the treasurer or any officer thereof or any draft or order or any form of policy or any appointment of an agent or any certificate or other instrument for the revocation of any such appointment or any other document whatever required or authorized by the rules of any such Society shall be exempt from all stamp duties.*

## SCHEDULE II.

## DUTIES ON THE ESTATES OF DECEASED PERSONS.

## PART I.

1. Probate or Letters of Administration to be granted in respect of any such Estate on every £100 or part thereof ... ... ... 1 per cent.

## PART II.

2. Settlement of property taking effect after death of settlor. Same duties as under part I.