

MEREDITH, C.J.]

[Feb. 20.]

HALSTED *v.* BANK OF HAMILTON.

*Banks and banking—Bank Act, 53 Vict., c. 31 (D.)—Assignments as security—Advances—Debts incurred—"Negotiating."*

A bank in dealing with a customer discounted certain notes and placed the proceeds thereof to his credit in his general account, at the same time taking assignments of goods to secure the payment of the notes, but under an arrangement no actual advances were made, and by a system of book-keeping the proceeds were transferred to other accounts of the customer in the bank and retained.

*Held*, that as no loan or real advance was made, or debt incurred when the assignments were taken, they could not be supported under the provisions of the Bank Act.

*Held*, also, that there was no "negotiating" of the notes within the meaning of section 75 of that Act.

*Gibbons*, Q.C., for the plaintiff.

*J. J. Scott*, for the defendants.

ROSE, J.]

[March 18.]

ATTORNEY-GENERAL *v.* CAMERON.

*Succession Duty Act—Present and future interests—Duty payable.*

Where a testator divides up his estate so as to create present and future estates or interests, the duty under the Succession Duty Act, 1892, 55 Vict. cap. 6 (O.), is to be assessed on the whole estate at the time of the testator's death, including both the present and future estates or interest, but duty is only to be paid at the death or within eighteen months thereafter on the present estates or interests, that is, those of which there is present possession or enjoyment, the duty on the future estates being deferred until they become estates in possession or enjoyment, and the duty then payable is not the duty fixed at the time of the death, but the duty assessed upon the value of such estates or interest at the time the right of possession or enjoyment accrues.

In computing the duty on annuities payable on testator's death, and of which there is present actual enjoyment, the duty thereon must be assessed on their then value. Duty also must be payable on the capital producing such annuities, when it becomes distributable as legacies or as part of the final distribution of the estate.

*J. R. Cartwright*, Q.C., for the plaintiff.

*E. D. Armour*, Q.C., for the defendants.

WINCHESTER, Master.]

[March 25.]

MCCULLOCH *v.* HAMILTON.

*Pleading—Time for delivery of defence—Rule 371.*

A defendant has, under Con. Rule 371, eight days from the expiry of the time limited for appearance to deliver his defence, although the appearance may be entered earlier than the time limited for so doing.

*Anlaby v. Praetorius*, 20 Q.B.D. 764, followed.

*L. G. McCarthy*, for the plaintiff.

*W. E. Middleton*, for the defendant.