

It is presumed that, before allowing letters to issue, the Judge, in his discretion, may demand further evidence on any of these points; and if, after the production of the additional evidence, he is still in doubt, then it would appear to be his duty to insist on the filing of the bond. The Judge can only form a *prima facie* opinion from the evidence before him, as it will be rarely possible to produce absolute and conclusive proof at the time the letters are applied for to show that the estate is one "in respect of which no succession duty is payable."

It is evidently not the intention of the Act that the question of the liability or non-liability of the estate to duty should be finally settled at this time, although it is submitted that it is open to the Provincial Treasurer, or to any other party interested to tender to the Judge proof that the estate does or does not fall under the Act, with the view of insisting on or resisting the delivery of the bond, and in this way it would seem that a final decision on the question might be forced. It would seldom, however, be to the advantage of the party applying for Letters to refuse to file the bond required, as by so doing the whole estate would be tied up until the question in dispute had been settled. As soon as the bond and proofs are filed with the Surrogate Registrar, probate can no longer be refused, under the 5th section. It then rests with the Provincial Treasurer, to whom the bond and proof are immediately sent, to take such further steps for the collection of the duty as he may consider necessary, if in his opinion any be payable. The delivery of the bond is not an admission to the Crown that any duty attaches. It may be noted also that the bond is only given to secure "any duty to which the property coming to the hands of such executor or administrator may be found liable." Hence, it would appear that the executor or administrator has nothing to do with the payment of duty upon property voluntarily transferred by deed, grant, or gift, and falling under the 4th section. It is submitted that in such a case the Judge could not (under section 5) refuse to issue Letters or insist on security being given, even if he had notice, from the party applying therefor, that the deceased had made such voluntary transfers of his property. The Act makes no provision for the giving of security by any person, except the party applying for Letters, and he can only be made responsible for duty upon the property coming into his hands. The only means provided for the collec-