

that which is necessary to prevent the mischief, and cannot relieve himself of responsibility by employing some one else, whether it be the contractor employed to do the work from which the danger arises, or some independent person—to do what is necessary to prevent the act he has ordered to be done from becoming wrongful." The case proceeds on the same principle, we may observe, as that on which *Black v. Christ Church Finance Co.*, 1894, A. C. 48 (see ante, vol. 30, p. 305), was decided by the Privy Council.

REVENUE—PROBATE DUTY—FOREIGN MORTGAGE—LOCAL SITUATION OF ASSETS—
(SUCCESSION DUTY ACT, 1892, 55 VICT. C. 6, 58 VICT. C. 7, 59 VICT. C. 5. (O.))

Attorney-General v. Sudely, (1896) 1 Q.B. 354, is a case which it seems necessary now to take into account in view of the Ontario Succession Duty Act and amendments above referred to, as bearing on the locality of assets. In this case the testator as died domiciled in England; by his will he bequeathed one-fourth of his residuary, real and personal estate to his wife. His will was proved in England, and while being administered there and before the clear residue had been ascertained, the wife died. The husband's estate included money invested in mortgages in New Zealand, which were unrealized at the wife's death, and no part of them had been appropriated to any particular shares of the ultimate residue. The executors of the wife, in their affidavit made for the purpose of obtaining probate of her will in England, did not include her fourth share of the mortgage securities, and refused to do so, claiming that it was not liable to probate duty. The Crown contested their right to exclude this property, and the Queen's Bench Division decided the point in favor of the defendants: the majority of the Court of Appeal (Lopes and Kay, L.JJ.), however, took a different view, and reversed the decision of the Queen's Bench Division, (Lord Esher, M.R., dissenting) and held that the right of the executors of the wife was not to have a share of the mortgaged securities in specie, but to have the estate of the husband administered, and to receive from his executors a fourth part of the residue; that this was a chose in action, recoverable only in England, and was therefore an English asset and its value liable to probate duty.