

"stress was laid in argument. Directly or indirectly the contention of the Attorney-General involved the very thing which the Legislature had forbidden to the province—taxation of property not within the province. The reasoning of the Board in *Blackwood vs. The Queen* (8 App. Cas., 82), seemed to cover this case. Their Lordships would, therefore, humbly advise His Majesty that the appeal of the defendants should be allowed and the cross-appeal of the plaintiff dismissed, that the judgment of the Court of Appeal should be set aside with costs, and the judgment of Chief Justice Falconbridge restored. The cross-appellant would pay the costs of the appeals."

Their Lordships, in arriving at these conclusions, appear to be influenced by two principal considerations, (1) that the property was locally situate outside the province, and that, therefore, the imposition of the succession duty was not direct taxation within the province, and (2) that the delivery under which the transferees took title was equally in both cases made in the State of New York. The only case referred to by their Lordships is that of *Blackwood vs. The Queen*, a case from Australia, which was decided in 1882, or sixteen years before the *Harding* case above referred to. In that case the testator died, domiciled in Victoria, and suit was brought to compel payment of duty upon movable property situate beyond the colony of Victoria. I quote a few words from the judgment of the Chief Justice of the Supreme Court of Victoria:—

"It is a clear proposition, not only of the law of England, but of every country in the world where the law has the semblance of science, that personal property has no locality. The meaning of that is not that personal property has no visible locality, but that it is subject to the law which governs the person of the owner, both with respect to the disposition of it and with respect to the transmission of it, either by succession or by the act of the party. It follows the law of the person. An owner in any country may dispose of his personal property. If he dies it is not the law of the country in which the property is, but the law of the country of which he was a subject that will regulate the succession. The legal