

## WEEKLY COURT.

## ATTORNEY-GENERAL FOR ONTARIO v. LEE.

*Revenue—Succession Duty—“Aggregate Value” of Property—Meaning of—R. S. O. 1897 ch. 24, secs. 2, 3—1 Edw. VII. ch. 8, sec. 3 (O.)*

Action to recover succession duty upon the estate of Walter S. Lee, deceased.

Upon the pleadings a question of law was raised as to the construction of the Succession Duty Act and amendments.

The will of the deceased gave all his property to defendants in trust for the benefit of his wife and children, and in certain events of his grandchildren.

The defendants submitted that upon the true construction of the Acts the “aggregate value” of the property of the testator was less than \$100,000.

By sec. 3 of the principal Act, R. S. O. 1897 ch. 24, the Act shall not apply (3) to property passing under a will “to or for the use of the father, mother, husband, wife, child, grandchild . . . of the deceased, where the aggregate value of the property of the deceased does not exceed \$100,000 in value.”

By sec. 2, the word “property” includes real and personal property of every description, and every estate or interest therein capable of being devised or bequeathed by will or of passing on the death of the owner to his heirs or personal representatives.

By the Succession Duty Amendment Act, 1901, 1 Edw. VII. ch. 8, sec. 3, the 2nd section of the principal Act was amended by adding thereto certain sub-sections, the first of which is as follows: (2) The phrase “aggregate value” means the value of the property before any debts or other allowances or exemptions are deducted therefrom.

The question raised was as to the meaning of the words “aggregate value,” where the property owned by the deceased was incumbered.

Frank Ford, for plaintiff.

W. R. Riddell, K.C., for defendants.

FALCONBRIDGE, C.J., held that upon the true construction of the above statutory provisions, and having regard to the other provisions of the Acts, the “aggregate value” meant the value of the property, and not merely the value of the deceased’s equity of redemption therein.