

could only have been inserted in the Act to indicate the property on which taxes were to be levied, he answered that it might be referable to other provisions of the Act which require declaration to be made as to the property of the deceased. But his Lordship goes further and discusses the important question, whether a succession duty of the kind imposed by the Act in question is within the competence of a Provincial Legislature, and he comes to the conclusion that it is not, because such Legislatures can only impose "direct taxation." Applying the prior decisions of the Board as to the meaning of "direct taxation" in the B.N.A. Act, the conclusion is reached that the tax in question is "indirect taxation," because under the Act the tax is payable not by the person who is intended or desired should pay it, but by persons in the expectation and intention that they shall indemnify themselves therefor at the expense of another. As is pointed out, there is nothing in Quebec law answering to our probate of wills, but the tax is payable by the person making a declaration as to the property of the deceased, who may be a notary before whom the will was executed, who is obviously not intended to bear the tax himself, but to obtain indemnity therefor from some other persons interested in the estate. The appeal of the executors was allowed and the appeal of the Crown was dismissed. The importance of the case must be our apology for so lengthy a note.

TRESPASS—JUS TERTII—TIMBER RIGHTS IN MINING LANDS—DEFENDANTS RECEIVING BENEFIT OF TRESPASS—RATIFICATION OF ACT OF INDEPENDENT CONTRACTOR—CROWN TIMBER ACT (R.S.O. 1897, c. 32) ss. 1, 2—MINES ACT (R.S.O. 1897, c. 36), ss. 39, 40.

*Eastern Construction Co. v. National Trust Co.* (1914) A.C. 197. This was an action brought by the plaintiffs, as the owners of a mining location, against the appellants and a firm of Miller & Dickson, to recover damages for cutting and carrying away a quantity of pine timber from the plaintiffs' mining location. The construction company had a license under R.S.O. 1897, c. 32, to cut timber on certain lands, but not those of the plaintiffs'. The company employed Miller & Dickson to cut the timber to which they were entitled under their license, and that firm proceeded to carry out its commission, but in doing so, without any authority or direction from the construction company, cut the timber on the plaintiffs' land in respect of which the action was brought. The timber cut was manufactured into ties and de-