

bequeathed by will, or of passing on the death of the owner to his heirs or personal representatives."

In the New York Act above referred to the terms "estate" and "property" are used synonymously, and refer, not to the tenure of the property devised, bequeathed, or succeeded to, as it is suggested is the meaning of the word "property" in the 2nd section of our Act, but to the actual property itself passing to those not exempted from the provisions of the Act. However, in the English Act before mentioned, the term "real property" is defined by reference to the tenure of the party holding it; so that the intention probably was to follow the English and not the American precedent, and to define the word as used in our Act by reference to the tenure.

After thus defining what "property" shall mean, the 3rd section of the Act specifies certain cases in which the Act shall not apply. This section will be referred to later on. The all-important section of the Act, however, and the one most difficult of interpretation, is the 4th section, dealing with the property which shall be subject to duty. This section reads as follows: (4) Save as aforesaid, all property situate within this Province, where the deceased person owning or entitled thereto was domiciled in Ontario at the time of his death; or had been so domiciled in Ontario within five years previous thereto; passing either by will or intestacy, or any interest therein or income therefrom which shall be voluntarily transferred by deed, grant, or gift made in contemplation of the death of the grantor or bargainor, or made or intended to take effect, in possession or enjoyment after such death, to any person in trust or otherwise, *or by reason whereof any person shall become beneficially entitled in possession, or expectancy, to any property or the income thereof*, shall be subject to a succession duty to be paid for the use of the Province, over and above the fees provided by the Surrogate Courts Act."

In order to assist the reader in interpreting this section, it will be best to place before him the material used in its construction viz., the 1st sections of the New York and Pennsylvania Acts referred to, and possibly the 2nd section of the English Act, although it is doubtful whether the latter section was made use of. The first section of the New York Act is as follows:

"A tax shall be . . . imposed upon the transfer of any property, real or personal, . . . or of any interest therein or