

*THE SUCCESSION DUTY ACT, 1892.*

(Continued.)

Another question for future decision is, what is intended to be embraced by the words, "All property situate within this Province," as used in the 4th section? The word "property" here refers to the actual property itself, when and as devised, bequeathed or succeeded to. With reference to property passing by will or intestacy, s-s. 4 of s. 18 of the Surrogate Courts Act, which provides that "Probate or letters of administration, by whatever court granted, shall, unless revoked, have effect *over the property of the deceased in all parts of Ontario*," may act as a guide to the discovery of what property is intended to fall within this clause.

It is submitted that only such property of the deceased as would fall under the control of an executor or administrator by virtue of such probate or letters of administration would come within the meaning of the words under discussion. Thus, for example, if the deceased died leaving money on deposit in a bank in Manitoba, such deposit would not form a part of the estate within the meaning of our Act, since the executor or administrator would not be entitled to collect the money by virtue of the letters granted to him in Ontario.

In the same way, if the deceased died holding a mortgage upon land in Manitoba, it would form no part of the estate for the purpose of this Act. But debentures of a foreign corporation would form part of the estate, in the same manner as foreign bank notes or foreign coin in possession of the deceased at his death. Negotiable securities of all kinds, even if made by parties residing out of the Province, would seem to be a part of the estate. The stock of a foreign corporation, if this test can be relied upon, would not come within the terms of the Act. But what would be included within the words, "Any interest in or income from property situate within this Province" voluntarily transferred in contemplation of death, or to take effect in possession after death, cannot exactly be decided by the same test, although probably only the same class of property is intended. The actual property itself is referred to, and not the mere evidences of property: It would appear as though our wealthy citizens might be partial to foreign investments in future. Another interesting question is, what would be