

Reports and Notes of Cases.

Dominion of Canada.

SUPREME COURT.

B.C.]

[Feb. 6.

BOYD V. ATTORNEY-GENERAL FOR BRITISH COLUMBIA AND
ATTORNEY-GENERAL FOR ONTARIO.

*Succession duties—Partnership property—Owners not domiciled in
province—Interest of deceased partner—R.S.B.C. 1911,
c. 217, s. 5.*

By sec. 5 of the Succession Duty Act of British Columbia, R.S.B.C. 1911, ch. 217, on the death of any person his property in the province "and any interest therein or income therefrom . . . passing by will or intestacy" is subject to succession duty whether such person was domiciled in the province or elsewhere at the time of his death. M.B. and his brother were partners doing business in Ontario and owning timber limits in British Columbia. The firm had no place of business nor man of business in that province and never worked the limits. The partnership articles provided: "If either partner shall die during the continuation of the partnership his executors and administrators shall be entitled to the value of his share in the partnership assets. 9. On the expiration of such partnership a valuation of the assets should be made and after providing for payment of liabilities the value of such property, stock and credits shall be divided equally between the partners, etc." M.B. having died while the partnership existed, his share in the partnership assets passed by his will to executors. The Province of British Columbia claimed that his interest in the timber limits was subject to succession duty.

Held, Davies and Anglin, JJ., dissenting, that under the terms of the articles of partnership M.B., at the time of his death, had an interest in the land in British Columbia which passed by his will and such interest was subject to duty under sec. 5 of the B.C. Succession Duty Act.

Held, also, that the imposition of the duty, if taxation, was "direct taxation within the province" and within the competence of the Legislature of British Columbia.

Appeal dismissed with costs.

Lafleur, K.C., and *David Henderson*, for appellants.

J. A. Ritchie, for the Attorney-General of British Columbia.

Wallace Nesbitt, K.C., for the Attorney-General of Ontario.