

tor died on the 13th October, 1912, at the city of Toronto, and among his papers were found the mortgages in question. Upon applying to this Court for letters probate, the executor entered into a bond whereby he covenanted to pay to the Treasurer of the Province of Ontario \$1,000, the condition being that he would pay or cause to be paid to the Treasurer of Ontario for the time being, representing his Majesty the King, all duties to which the property, estate, and effects of the deceased may be found liable under the provisions of the Succession Duty Act; and in the schedule accompanying the papers these two mortgages are set forth as part of the estate, amounting with interest to \$4,108.32. Before paying the duty in Ontario, the executor applied for and obtained ancillary letters probate in British Columbia, in January, 1914, for the purpose of discharging one of the mortgages and assigning the other as set forth in the affidavit of the executor on this application; and upon such application for ancillary probate the executor paid to the Province of British Columbia succession duty on the amount of the mortgages, being the sum of \$203.35. In the month of April, 1914, the executor paid the Treasurer of this Province the amount of succession duty claimed, less the sum of \$203.35 which he had paid to the Province of British Columbia.

The executor now contends that the estate is not liable to pay this duty to the Province of Ontario, because the sum was properly paid in the Province of British Columbia, and credit should be given him on the Ontario claim in respect of the said amount.

Counsel for the Province relied upon *Lambe v. Manuel*, [1903] A.C. 68; *Treasurer of the Province of Ontario v. Pattin* (1910), 22 O.L.R. 184; British Columbia statutes and interpretations. Counsel for the executor cited *Lovitt v. The King* (1910), 43 S.C.R. 106, 131, and *The King v. Lovitt*, [1912] A.C. 212, at p. 223; *Harding v. Commissioners of Stamps for Queensland*, [1898] A.C. 769; *Commissioner of Stamps v. Hope*, [1891] A.C. 476; *Cotton v. The King*, [1914] A.C. 176; and also British Columbia and Ontario statutes on the question.

The case of *Treasurer of the Province of Ontario v. Pattin*, 22 O.L.R. 184, referred to by the Supreme Court in *The King v. Cotton* (1912), 45 S.C.R. 469, shews conclusively that these mortgages were properly taxable for succession duty in this Province, the case of *Commissioner of Stamps v. Hope*, [1891] A.C. 476, being followed. The case of *Harding v. Commissioners*