

**1387i.** The provisions of articles 1384 to 1387a Certain provisions to apply. inclusive, shall apply to this section".

**2.** This act shall apply to all future transmissions mentioned in section 1 thereof, and to all past transmissions in respect of which the taxes mentioned in the provisions repealed by the act 4 George V, chapter 9, have remained unpaid in whole or in part. Nevertheless the delays granted for the payment of any sum of money or for the performance of any duty required to be paid or performed in virtue of this act, may be extended by the Provincial Treasurer, but such extension shall in no case exceed six months. Application of the act.

**3.** This act shall come into force on the day of its sanction. Coming into force.

## CHAP. 11

An Act respecting certain duties imposed on successions.

[Assented to 19th February, 1914]

**W**HEREAS, on the 22nd day of November, 1913, in a Preamble. cause wherein Charles S. Cotton and others were supplicants and appellants, and His Majesty, the King, in right of the Province of Quebec, was respondent, a judgment was rendered by the Judicial Committee of the Privy Council, in consequence of which doubts have arisen as to whether the taxes imposed by the Quebec Succession Duties Act, 6 Edward VII, chapter 11, then articles 1374 to 1387, both inclusive, of the Revised Statutes of Quebec, 1909, were direct taxes;

Whereas such doubts have arisen from the interpretation given to said act, by the said Judicial Committee, to the effect that it imposed the whole of the duties leviable in respect of any succession, upon the person making the declaration mentioned in paragraph 1 of article 1191g of the Revised Statutes, 1888, then article 1380 of the Revised Statutes, 1909, which person should have recovered the amount so paid from the persons interested in the succession;

Whereas, according to this judgment, among the persons who might make the said declaration, and who, by making the same, would become liable for the said duties, might be, and generally was, the notary before whom the will of the deceased was executed;

Whereas, paragraph 1 of article 1191*g* of the Revised Statutes, 1888, then paragraph 1 of article 1380 of the Revised Statutes, 1909, expressly excluded the said notary from the class of persons who must make and forward the said declaration, and, therefore, the holding of the said Judicial Committee, was, to a large extent, based upon conditions which were non-existent;

Whereas, neither the said act 6 Edward VII, chapter 11, nor any of the previous or subsequent acts of the Legislature respecting succession duties, intended to impose or did impose the whole of the duties leviable in respect of a succession, upon the person making the said declaration, but on the contrary, intended to tax and did tax, immediately, and without recourse to any other person, all beneficiaries under the said succession;

Whereas, the said holding appears to be based on the second sub-paragraph of paragraph 1 of article 1191*g* of the Revised Statutes, 1888, (then the second sub-paragraph of paragraph 1 of article 1380 of the Revised Statutes, 1909), reading as follows: "The declaration duly made by one of the above named persons shall relieve the others as regards such declaration", taken in connection with paragraph 4 of the said article, which enacted that on receipt of such declaration, a statement must be prepared of the amount of duties to be paid by "the declarant," and with paragraph 5 of the said article, which provided for a demand of payment upon the "declarant";

Whereas, the words: "The declaration duly made by one of the above named persons shall relieve the others as regards such declaration" were not in the first act relating to succession duties (the Act 55-56 Victoria, chapter 17), which act, however, contained the equivalent of the paragraphs 4 and 5 above mentioned; but were first enacted by section 2 of the Act 58 Victoria, chapter 16;

Whereas, before the coming into force of the act last mentioned, each of the persons interested in a succession was obliged to make the said declaration, and was alone liable to pay the taxes imposed upon his share in the succession; the said taxes being therefore direct taxes;

Whereas, the said section 2 of the Act 58 Victoria, chapter 16, did not intend to change and did not change the nature of the said tax, or the persons by whom the same was payable; its sole object and effect being to prevent the useless duplication of documents containing the same information;

Whereas, even if a single declarant making the declaration in question, could be called upon to pay the whole of the taxes due in respect of the death, out of the assets of the

succession, such payment would not be a payment by one person in the expectation that he would indemnify himself at the expense of other persons, but would be a payment by one person as the representative of, and out of the money of other persons;

Whereas, the persons who have paid succession duties before the coming into force of section 2 of the Act 58 Victoria, chapter 16, have no right to recover back the same on the ground that the duties so paid were not direct taxes; and whereas, to retain the moneys they have so paid, and to refund, on such a ground, the moneys subsequently paid by other persons in discharge of similar duties, would be to unjustly discriminate against the former;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** The intent and meaning of all the acts of the Legislature imposing succession duties, was and is, that every person to whom property or any interest therein was transmitted owing to death, should pay to the Government directly, and without having a recourse against any other person, a tax calculated upon the value of the property so transmitted.

Intent and meaning of acts re succession duties.

**2.** There shall be no right of action for the recovery of any money heretofore or hereafter paid to the Government in respect of taxes or duties imposed by any act of the Legislature relating to succession duties, for the reason only that the said taxes or duties were not direct taxes.

No right of action for recovery of money paid, on certain ground.

**3.** This act shall not apply to pending or decided cases.

Application.

**4.** This act shall come into force on the day of its sanction.

Coming into force.

## CHAP. 12

An Act to amend the Revised Statutes, 1909, respecting motor vehicles.

[Assented to 19th February, 1914]

**HIS MAJESTY**, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** Article 1388 of the Revised Statutes, 1909, is amended

R. S. 1388 am.