plaintiff corporation with any part of the cost or expenditure incurred under or by reason of the by-law.

The plaintiff corporation's costs of the action, including the costs of the application to restrain the defendant corporation from acting on the by-law pending the delivery of judgment, must be paid by the defendant corporation.

BRITTON, J. JULY 13TH, 1917.

RE MUNRO.

Succession Duty—Succession Duty Act, R.S.O. 1914 ch. 24, secs. 5, 9, 10, 11, 18—Duty Paid elsewhere on Part of Estate—Duty Chargeable against Specific Legacies, and not against Residue.

Motion on behalf of the executors and trustees under the will of William Munro, deceased, for an order declaring whether the succession duties payable by the estate of the deceased should be charged against and paid out of the specific legacies given by the will of the deceased, or charged against and paid out of the residuary estate.

The motion was heard in the Weekly Court at Toronto.

McGregor Young, K.C., for the executors, the Royal Trust Company Limited.

J. A. Worrell, K.C., for the specific legatees.

R. H. Parmenter, for the residuary legatees.

BRITTON, J., in a written judgment, said that the testator made his will on the 24th September, 1910, and died on the 27th February, 1916, leaving an estate of the value of $168,000. He did not by his will give any instructions or direction in any way regarding succession duties.

Succession duty is not included in what are ordinarily termed testamentary expenses.

Of the estate of the deceased, the personal estate and effects were of the value of about $167,000.

The deceased, at and for some time before his death, styled himself of London, England, but he died at Bournemouth, England, where he resided temporarily. The deceased had not changed his domicile—which was the Province of Ontario. His assets were widely scattered, and, in respect of these, succession duty was payable by the estate.