

pay costs. The only direction that can be given is, that each is to contribute ratably to pay the other and to pay all costs: *Norvell v. Norvell*, L. R. 7 Eq. 537. That, in effect, is letting each pay his own costs, except as to the costs of so much of the proceedings in the Master's office as are given to Hopkins to be paid by Stewart.

BOYD, C.

MARCH 28TH, 1903.

WEEKLY COURT.

ATTORNEY-GENERAL v. TORONTO GENERAL TRUSTS CORPORATION.

*Costs—Special Case in Action to Recover Succession Duty—Costs Payable by Crown where Unsuccessful.*

Motion for a direction as to the costs of action and special case as to liability of estate of Hugh Ryan, deceased, for succession duty, in which judgment was given by the Chancellor on the 11th December, 1902 (1 O. W. R. 807.).

W. E. Middleton, for plaintiffs.

A. E. Knox, for the trustees.

J. D. Falconbridge, for the adult beneficiaries.

BOYD, C.—In litigation under the Succession Duty Act which is remitted to the High Court there is power expressly given to deal with the costs: 62 Vict. (2) ch. 9, secs. 1 and 3. Generally such jurisdiction is conferred as is exercised by the Court in ordinary controversies between parties. The rule of dignity which formerly prevailed, that the Crown (and the Attorney-General acting for the Crown) neither asks nor pays costs, is practically suspended. In petitions of right costs are in the discretion of the Court (Rule 934), and so in cases of convictions being quashed or affirmed (Rules of 7th June, 1902). So, under the general head of "Crown Actions," "in case in any . . . proceedings before any Court . . . in Ontario, by or on behalf of the Crown . . . by virtue of any statute relating to the public revenue," costs may be dealt with as in actions between subject and subject (Rules 239, 240). The jurisdiction to give costs in a special case, though not provided for in terms, is conceded to exist under the Imperial Act 13 & 14 Vict. ch. 35, sec. 32, by which the costs in "special cases" are in the discretion of the Court—which is incorporated into our law by the Judicature Act,