

of the Toronto General Trusts Company to invest (see Con. Rule 81). If lands came into the hands of the accountant as mortgagee, and were liable to taxation, the charges for taxes, etc., and incidental charges in connection with the making of the investment, would be paid, if paid at all, out of the general funds standing to his credit, and the same could not be charged against any particular estate.

However startling it may be to learn that these funds are liable to taxation under the existing law, it is nevertheless my duty to interpret it according to my best judgment. The policy of such taxation can only be dealt with by the Legislature. It is an elementary principle of the construction of a statute imposing a tax on all property to construe all clauses creating exemption strictly, and, unless the property sought to be taxed is clearly within the exemptions named, it must bear its share of the tax burden. The Legislature will probably be asked to deal with the question, if the present decision should be deemed to be a correct exposition of the law as it stands.

Before concluding, I might point out, that the funds in Court invested in the accountant as trustee can be assigned by the legal owner entitled to them *if sui juris*; that they are liable to a species of equitable execution affected by procuring a stop order, which ties up the fund to the extent of the claim, and prevents payment out of that fund from the moneys in Court without notice to the claimant. It also appears to be liable to a solicitor's lien, which, it has been held, takes precedence even of a stop order: *Haynes v. Cooper*, 33 Beav. 431. As to special orders and assignments, Con. Rule 82 may be referred to.

The appeal will therefore be dismissed. The assessment, however, will be increased to the amount of the moneys (uninvested) standing to the credit of the accountant at the date of the hearing of this appeal. The accountant will furnish the assessment department with the correct figures. In view of the importance of this decision, and with the object of obtaining the decision of the highest Court in the province, I propose to state a case to the Lieutenant-Governor-in-Council, with the view of having the same referred to the Court of Appeal.