

sec. 8, s-s. 13. The accountant is therefore a trustee of the moneys in Court which are vested in him, subject to the same trusts as such moneys were subject to when they came into his hands. As such trustee he may sue and be sued. He does not hold these funds for Her Majesty or for the use of the province, but for the various private individuals entitled to or who may be declared to be entitled thereto by the Court. The Crown has no beneficial interest in these moneys.

Under the Assessment Act, R.S.O. 224, sec. 7, All property in this province is liable to taxation unless specially exempt. Personal property liable is defined in sub-section 10 of section 2 as including "all goods, chattels, interest on mortgages, dividends from bank stock, dividends on shares, or stocks of other incorporated companies, money, notes, accounts and debts at their actual value, income and all other property, except land and real estate . . . and except property expressly exempted."

Now, turning to the exemptions, sub-section 1 of section 7 exempts all property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public use of the province.

Next, considering how trust moneys are to be assessed and rated by the municipality, section 46 of the Assessment Act enacts that personal property in the sole possession, or under the sole control of any person or trustee, guardian, executor or administrator, shall be assessed against such person alone. Sub-section 2 of 46 directs that the trustee shall be assessed in his representative character for the value of the real and personal estate held by him . . . at the full value thereof.

It was stated by the accountant in examination before me that the moneys in Court held by him, invested and uninvested, represented the several moneys of a large number of individuals. The accounts would exceed 5,000 in number, and many of the separate accounts might represent a variety of interests of a number of individuals.

It was contended before me that it was never intended by the Legislature to allow these particular funds to be subject to taxation, but a careful consideration of the various statutes and clauses above referred to force me to the conclusion that the Legislature has not expressly exempted them. It has expressly vested funds, the property of private individuals, which have come into the hands of the Court, in the name of an officer whom it constitutes a corporation sole to hold such funds upon the same trusts as those impressed upon the funds before they were paid into Court. These private persons are the beneficial owners of the funds. It is true, in some instances, that at the time such moneys were paid into Court the rights of the private parties as between themselves may not have been determined. The Court is given power to settle such questions, but the moneys meanwhile are safeguarded by being paid into Court. It is nowhere declared that the officer, the accountant, the corporation sole, holds these funds in any sense for Her Majesty or for the use of the province.