

defendant to have the general costs of defence of the action on the High Court scale, less the costs of the issue on which plaintiff succeeded; these costs to be set off against plaintiff's judgment for \$20 and costs, and execution to issue for the balance found due to either party.

STREET, J.

JULY 7TH, 1903.

CHAMBERS.

RE ENGLEHARDT.

Administration—Summary Application for Determination of Questions—Domicil of Intestate—Persons Entitled to Share in Estate—Evidence—Certificates of Births, Deaths, and Marriages—Administration Order.

Application under Rule 938 for the determination of the following questions: (1) Whether H. A. Englehardt, deceased, had at the time of his death acquired an Ontario domicil or retained his German domicil of origin, in order that it might be determined by what law his estate of about \$10,000 was to be distributed. (2) Who were the persons entitled to share in his estate and in what proportions. The application was made on behalf of the Toronto General Trusts Corporation, administrators of the estate.

R. C. Levesconte, for the applicants and certain creditors.

W. R. Smyth, for the Strumpfer family, residing in Germany.

STREET, J.—As to the first question, there is no evidence beyond the fact that the deceased resided in Toronto for 18 years and probably never became a British subject by naturalization. Upon this evidence the finding would have to be that the deceased was domiciled here. To answer the second question the Judge would have to trace the descendants of "the clothmaker Johanne born Demme," who lived and had a large family and died at Mulhausen, in Germany, in the latter part of the 18th or the early part of the 19th century; also of Heinrich Conrad Tamm and his wife Johanna Juliané Beohstedt, who died at Langensalza, in Germany, between 1830 and 1840, where they had a large family also. The proof offered of the numerous births, deaths, and marriages involved in this inquiry, consists of a series of certificates, some of them purporting to be official, some of them of private persons, but none of them being receivable in evidence in this Province, for sec.