

will, without further notice, be placed in the hands of the Company's solicitor to proceed under the decree." Why should any such resolution have been passed if the Company had become free from liability to Choonilal Seal on the note, by any laches on his part in omitting to give a due notice of dishonor? Whether Mr. Marten paid Choonilal Seal or not, would have been a matter of indifference to the Company.

I have no doubt that, as a matter of fact, the Company had due notice of the dishonor.

There will be a decree for plaintiff for Rs. 5,000, with interest at 6 per cent. from the 9th February, 1867, and costs on scale 2

Attorneys for the plaintiff: *Messrs. Carruthers and Co.*

Attorneys for the defendants: *Messrs Watkins and Stokoe*

Before Mr. Justice Norman

IN THE GOODS OF F. NECHTERLEIN, DECEASED.

*Letters of Administration—Administrator-General—Act XXIV. of 1867,
(Administrator-General's Act)—Act X. of 1865, (Indian Succession Act.)*

Feb. 17.

A British subject died intestate, leaving property within the jurisdiction of the High Court for the N. W. Provinces and of the High Court at Fort William. General Letters of Administration were granted by the High Court for the N. W. Provinces to the Administrator-General of Bengal, who was not then aware that the deceased had left property within the jurisdiction of the High Court at Fort William. On discovering that the deceased had left property within the jurisdiction of the latter Court, the Administrator-General applied to that Court for General Letters of Administration, which were granted by the Court, on condition that he would apply to have the Letters of Administration granted by the High Court for the N. W. Provinces, recalled.

The High Court at Fort William has power to grant to the Administrator-General Letters of Administration which shall operate throughout the whole of the Presidency of Bengal.

Mr. *Woodroffe*, on behalf of the Administrator-General, moved that General Letters of Administration to the estate and

1867

CHOONILAL
SEAL
v.
SPENCE'S
HOTEL CO

1868
 IN THE GOODS
 OF
 NECHTERLEIN.

effects of the deceased, be granted to the Administrator-General, upon the following petition of the Administrator-General:

“The deceased, who was in his life-time, and at the time of his death, a British subject and an indigo planter, residing at the Murdock Indigo Factory, in the District of Allyghur, departed this life at Agra, in the North-Western Provinces of India, on the 20th day of May, 1867, intestate, leaving property and effects within the jurisdiction of the said North-Western Provinces, and also within the jurisdiction of this Honorable Court.

“The assets of the said deceased within the North-Western Provinces, consisting of indigo factories, zemindaries, house property, Government and other securities, and other personal property, are estimated at about Rs. 5,73,934.

“Soon after the death of the said deceased, his widow applied to the High Court of Agra for Letters of Administration to the estate and effects of the said deceased, but the same were not granted to her for want of the necessary security being furnished by her, and one G. H. Kearvey was, on the application of the said widow, appointed Administrator *pro tem*.

“Your petitioner, subsequently, at the request of parties interested in the said deceased’s estate, applied to have the limited Letters of Administration granted to the said G. H. Kearvey cancelled, on the ground, amongst others, that the said G. H. Kearvey was indebted to the said deceased’s estate in a very considerable sum, and that your petitioner was about to apply to this Honorable Court for a grant of Letters of Administration, your petitioner having a prior right to the said G. H. Kearvey to such grant, but the said High Court at Agra being disinclined to cancel the Letters of Administration pending your petitioner’s application to this Honorable Court, your petitioner applied for Letters of Administration to the High Court at Agra, and thereupon the limited Letters of Administration so granted as aforesaid to the said G. H. Kearvey were cancelled, and General Letters of Administration were granted to your petitioner by the said High Court at Agra, on the 20th December, 1867.

“Although such Letters of Administration were so granted

to your petitioner, the same do not give him any jurisdiction over the said deceased's assets, except in the said North-Western Provinces. 1868
IN THE GOODS
OF
NECHTERLEIN.

“At the time your petitioner applied to the said High Court at Agra for such Letters of Administration, he was not aware that there were any assets in Calcutta belonging to the said deceased's estate.

“No application has been made for grant of Probate or for Letters of Administration to the estate of the deceased within the jurisdiction of this Honorable Court, and that a period of more than one month has elapsed since the death of the said deceased.

“Your petitioner as such Officiating Administrator-General is desirous of obtaining out of and under the seal of this Honorable Court, General Letters of Administration to the estate and effects of the said deceased.”

NORMAN, J.—Mr. Wilkinson, the Officiating Administrator-General of Bengal, has applied to this Court for a grant of Letters of Administration to the estate and effects of Frederick Nechterlein, deceased, who was, in his life-time, a British subject residing in the District of Allyghur, and died intestate in 1867, leaving property within the jurisdiction of the High Court of the North-Western Provinces, and also within the jurisdiction of this Court. The property and effects of the deceased within the jurisdiction of this Court are stated to amount to Rs. 3,875.

Letters of Administration were granted to Mr. Wilkinson as Administrator-General, by the High Court of the North-Western Provinces, on the 20th of December, 1867.

He now applies to this Court, on the ground that the Letters of Administration so granted do not give him any right to assets, except within the North-Western Provinces, and his petition states that at the time when he applied to the High Court of the North-Western Provinces, he was not aware that there were assets in Calcutta belonging to the intestate's estate.

The question whether the Letters of Administration granted by the High Court of the North-Western Provinces operate to give the Administrator-General a title to assets within the jurisdiction of the High Court at Fort William in Bengal, turns

1868
 IN THE GOODS OF
 NACHTERLEIN, upon the construction of certain clauses of the Administrator-General's Act XXIV, of 1867, read in connection with the Indian Succession Act X. of 1865.

By the 190th section of the last mentioned Act, no right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless Letters of Administration have first been granted by a Court of competent jurisdiction.

Then by section 235, "The District Judge (who in section 3 is defined to be the Judge of a Principal Civil Court of original jurisdiction) shall have jurisdiction in granting and revoking Probates and Letters of Administration in all cases within his district.

The 242nd section shows within what limits such grants operate. "Probate or Letters of Administration shall have effect upon all the property and estate, movable and immovable, of the deceased, throughout the provinces in which the same is granted, &c." and by section 3 "province" is defined "any division of British India having a Court of the last resort."

The result of these enactments is that an ordinary grant of Letters of Administration by one of the High Courts in India does not operate beyond the limits of the Province within which it exercises jurisdiction.

Then comes the Administrator-General's Act, the 14th section of which enacts—"That so far as regards the Administrator-General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court of Judicature at the Presidency Town shall be deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, wheresoever within the Presidency the property to be comprised in the Probate or Letters of Administration, may be situate."

In the Administrator-General's Act, "the Presidency of Bengal" includes "the territories which are or shall, for the time being, be respectively under the Governments of the Lieutenant-Governor of Bengal, the North-Western Provinces, and the Punjab, and under the administration of the Chief Commissioner of Oudh, the Central Provinces, and British Burmah,"

Presidency Town" is declared to mean "the Town of Calcutta, _____ 1868
 "Madras, or Bombay." IN THE GOODS
 OF

The effect of these enactments is that the High Court of Judicature at Fort William in Bengal, and that High Court alone, is empowered by the 14th section to grant to the Administrator-General Letters of Administration, which shall operate throughout the whole of the Presidency of Bengal, a defined by the 3rd section of that Act; and it follows that the grant by the High Court of the North-Western Provinces does not operate on assets within the jurisdiction of the High Court of Judicature at Fort William in Bengal. The grant by this Court has operation throughout the entire Presidency of Bengal. The Administrator General's Act does not appear to contemplate a limited or partial grant in a case like the present.

Formerly, in England, when a diocesan grant was made, if it was subsequently discovered that there were *bona notabilia* elsewhere within the province, and the party, to whom the grant was made, applied to the Prerogative Court for Letters of Administration, general letters were granted; the property was treated as wholly unadministered under the former grant, and the Administrator was bound to exhibit an inventory and account of the whole estate in the Prerogative Court.

There, however, the diocesan grant was null and void. Here considerable inconvenience and expense may be caused, if the Administrator-General acts under a double grant. But upon the understanding that the Administrator-General will apply to have the Letters of Administration granted by the High Court for the North-Western Provinces recalled, I think I am bound to grant the Letters of Administration in the terms prayed.

The facts stated in the petition show that before the application of the Administrator-General to the High Court at Agra, the widow of the deceased had, in fact, abandoned the attempt to obtain Letters of Administration in her own name, and under such circumstances I do not think it necessary to order citations to issue. The costs of this application will come out of the estate.

Proctors for the petitioner: *Messrs. Berners, Sanderson, Fergusson, and Upton.*