property in Calcutta from being lost, as a friend of the deceased, and as the constituted attorney of one of the chief legatees.

The impugnant and cross libellant, Sarkies Johannes, stated himself, in his defensive allegation and cross libel, to be a friend of the deceased, and to be in possession of a great part of his property, from having had mercantile dealings with him in his lifetime for 15 years, and he also stated himself to be the constituted attorney of the testator's next of kin, his niece, who was at Madras, but not entitled under the will. S. Johannes also represented himself as acting under the direction of the executors, but without any letter of attorney.

The first question arose as to the jurisdiction of the Court.

Burroughs, A. G., Ledlie and *Carrington* for the ori-**[20]**ginal promovent, contended that the Court might grant administration with the will annexed, and that the Ecclesiastical jurisdiction attached on the goods. If a man left *bona notabilia* in two dioceses, in England, wherever his death might happen, the archbishop might grant administration of the goods.

Strettell and *Shawe* contra, objected to the proof of the jurisdiction. It had been contended, that if the charter had given less power than the stat. 13 Geo. III. ch. 63, the statute must control the charter, but they conceived that the converse position alone was tenable.

The Court (*Chambers* and *Dunkin, Js.*) were unanimously of opinion that they had authority to grant such an administration with copy of will annexed, and that chiefly for the same reason as governs Ecclesiastical Courts in granting many special administrations, *viz.*, the necessity or expediency of the measure. (a)

The question then arose, and occupied the Court several days, to whom the special administration in this case should be granted. Ultimately,

The Court granted the special administration with the will annexed to Padre Stephanas, *durante absentiâ* of the executors, and with the power of recalling the same, if an application should be made by the executors, or by their attorney duly authorized. (b)

Administration accordingly.

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[21]. IN THE GOODS OF SAUNDERS (1798).

Dickens' MSS. Jan. 19th, 1798.

Application to sue in the name of the obligee of the administration bond, refused, until citations issued to the sureties. (a)

LEDLIE made an application, pursuant to the provision in the charter, cl. XXIII. for liberty to sue in the name of the obligee of the bond, which had been given for the due administration in these goods.

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[20] (a) See inf. p. 26. n. (*a*).

(b) The sentence, however, was afterwards reversed by the King in Council, not upon the ground of want of jurisdiction, but it seems because it was considered that Sarkies Johannes ought to have been preferred as the special administrator. *Dickens' MSS.*

[21] (a) See proceedings upon administration bond in the name of the junior Judge, *Burroughs* v. *Chisholm*, 2 Morley's Dig. 72, 89.

The Court, upon enquiring whether any citation had gone against the sureties in the bond, and being answered in the negative, refused permission.

Refused.

IN THE GOODS OF VANCITTERS (1800).

Dickens' MSS. Jan. 10th, 1800.

The Court is bound to grant administration to the superior creditor, and the question who is such, may be tried by the Ecclesiastical Court. (dictum of Anstruther, C.J.)

ANSTRUTHER, C. J. In some cases the Court must try the question whether the petitioner is *primâ facie* the chief creditor, although no doubt the Ecclesiastical Court cannot hold pleas of debt. But if two creditors apply for administration, and one denies the other to be a creditor, who alleges that he is the superior creditor, the Court is bound by the charter to grant administration to the superior creditor, and therefore they must ascertain the fact upon allegations in a plenary suit. The Court cannot refuse probate to an executor, and the charter is equally mandatory on the Court to grant administration to the superior creditor. It is perhaps unfortunate that the charter is so mandatory, because it may happen that the superior creditor is a very improper person to have administration granted to him.

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[22] ANONYMOUS (1837).

MS. Notes, Feb. 1st, 1837.

Administration refused to the cheelah or disciple of the deceased, (a religious devotee) dying without relations.

PRINSEP moved that the usual citations do issue, and, that administration be granted to the cheelah or disciple of the intestate. The affidavits stated that the intestate was a gossein, or religious devotee, that he had no known relations living, and that the cheelah was looked upon as the heir and representative.

Ryan, C. J. You ask for administration to be granted to the next of kin of the deceased, and your affidavits show that he has no next of kin! We cannot decide in this motion who is entitled to the property of the deceased.

Motion refused.

IN THE GOODS OF SHAMLOLL TAGORE (1838).

MS. Notes, July 27th, 1838.

The Ecclesiastical Registrar has no such capacity as ex officio administrator, where there is either next of kin or creditor. Caveat of widow allowed against his petition at suggestion of creditor.

IN this case a caveat was entered, on behalf of the widow of the deceased, against the petition for administration of the Ecclesiastical Registrar of the Court, who applied, at the suggestion of a bond creditor of the deceased.