

A caveat was entered by L. T. Dumoulin, as friend of the deceased, and grand-father of his young children, whose mother, the daughter of Dumoulin, had died before her husband. The caveator resided at Chandernagore, out of the jurisdiction, but he offered to give a bond with British sureties to the Registrar or the Accountant-General. A proposal was also made on his behalf to split the administration, granting to Mr. Ledlie administration of all debts on account of business done by deceased as an attorney, which would have satisfied Ledlie's claim as a creditor. But,

The Court thought that Mr. Ledlie had a prior right by the charter, and was in other respects the fitter person.

*Caveat overruled.*

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IN THE GOODS OF KELLICAN (1786).

*Dickens' Mss. First Term, 1786.*

'Principal creditor' means 'the creditor with the highest security'; and the Court has no discretionary power to refuse the administration to him.

THE deceased being indebted in several large sums of money to both bond and simple contract creditors, a question arose, who was intended by the description in the charter of principal creditor of the person dying intestate.' The deceased Kellican, in his life time became indebted to Modun Dutt and Thomas Graham in the sum of Rs. 10,000 on bond, and he also became indebted to Thomas Law to the amount of four lacs of rupees, on account of E. I. Company's securities to that amount, deposited with Kellican as the attorney and agent of Law, and which Kellican had converted to his own use.

Dutt and Graham contested with Law the right to the administration, and the question accordingly arose, whether he was the principal creditor to whom the deceased owed the largest sum of money, or whether he was the principal creditor whose security was of the higher nature.

The Court, although they declared they would have preferred Law if it had been left to their discretion, thought the legal import of the words 'principal creditor' was 'the creditor with the highest security,' and therefore adjudged that the letters of administration did of right belong to Dutt and Graham, the bond creditors of [13] the deceased, in preference to Law, who was only a simple contract creditor, although a creditor to a much larger amount than the bond creditor thus preferred.

*Administration accordingly. (a)*

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IN THE GOODS OF PICKERING (1787).

*Chambers' Notes, June 26th, 1787.*

Under circumstances a 'friend' of the deceased may be preferred to a small creditor, whose debt the petitioner offers to satisfy.

THIS came on upon the petition of Brown and Haig, and the caveat of Lowder.

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[13] (a) See *ante*, p. 6 and *post*, p. 14.

It appeared from the affidavits of Brown and Haig, that they were intimate friends of the deceased and of his family; and they were admitted to be men of property and great respectability. The effects left by the deceased were of the value of about Rs. 25,000.

The affidavits of Lowder stated him to be a friend and a creditor of the deceased to the amount of Rs. 360. It was also sworn that the deceased had often expressed his confidence in Lowder, and his desire that he would protect the deceased's three young children.

The affidavits in reply set forth that Lowder was a man of no property whatever, and that the petitioners had offered and were now ready to discharge the small debt due to him immediately.

*Davies* and *Ledlie* for the petitioners, contended that the claim of Lowder as a creditor must be put out of the question. Where there is an estate of twenty or thirty thousand rupees, could a khansamah, or other person, to whom a few hundred rupees happened to remain unpaid, be considered a creditor within the meaning of the charter, the petitioners being fitter in all other respects, and having offered to pay the debt?

*W. Dunkin* and *Casan* for the caveator, admitted that their client was not worth much money, but he offered [14] undeniable security, and he was the man of the intestate's choice. Besides, although the Court exercises a discretionary power in granting administrations, that discretion is regulated and controlled by the charter, and the right of a creditor comes before the claim of a friend.

The Court (*Chambers, Hyde, and Jones, Js.*) upon consideration, were of opinion, 1st. That Brown and Haig were fitter persons to be entrusted with that estate which was then vested in the relations (in England) of the deceased: 2ndly. That Lowder was not such a creditor, as, within the true meaning and intention of the charter, should be preferred to every 'friend' of the deceased (a) except the next of kin. And, accordingly,

*Caveat over-ruled.*

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IN THE GOODS OF LOVEJOY (1787).

*Chambers' Notes, (b) Oct. 25th and 31st, 1787.*

Judgment creditor preferred to bond creditors. *Semble*, among creditors of equal degree, magnitude of debt is to be the criterion.

THIS case came on for argument upon the petition of Bondfield, and the caveat of Perreau and Palling, who also petitioned for administration. The former was a judgment creditor for Rs. 10,800 (the penal sum in a bond and warrant on which judgment had been entered up a few days before the death of the intestate,) Perreau and Palling were each bond creditors in their

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[14] (a) The Registrar is now substituted for the 'friends' of the deceased; ante p. 10 Note (c). See *In the Goods of Porteous*, (in notis, tit. Administration) as to the nature of the debt as a title to administer.

(b) Shortly reported also in Dickens' MSS.