

IN THE GOODS OF WHIFFEN (1783).

Hyde's Notes, Mar. 27th, 1783.

When the petitioner applied as a 'friend,' the Court were of opinion that they might consider his general character.

THIS was a petition by one Bodell, as a friend of the deceased, and a caveat was entered by James Savage.

The Court (*Impey, C. J.* and *Hyde, J.*) agreed, that in cases where the application for administration is as a friend to the deceased, the Court have a right to consider their own private knowledge of the general character of the man who applies, (b) and in this case their Lordships knew that Bodell had been in prison, and was not a man of general good character, and they considered that he was not a proper person to have the administration. Savage seemed to be a more proper person, but his petition was not before the Court.

Caveat allowed. (c)

[11] IN THE GOODS OF MARTIN (1785).

Chamber's Notes, Nov. 10th, 1785.

Administration granted to the greater of two bond creditors, upon executing an average bond to the other.

LIEUT. D. Macleod, a bond creditor for Rs. 5,000 petitioned for administration, and a caveat was entered by Patrick Cantwell, another bond creditor, for a debt of smaller amount (Rs. 1,000).

The Court determined that the administration should be granted to Macleod, provided he would enter into an average bond (a) to Cantwell, to pay him *pro rata* as he should pay himself.

Davies, A. G. as advocate for Macleod, assented to this; and accordingly administration was

Granted.

IN THE GOODS OF EATON (1786).

Chamber's Notes, June 29th, 1786.

A creditor preferred to the grand-father of the orphans of the deceased.

WM. LEDLIE, an attorney, petitioned as a friend and creditor of the deceased, who was also an attorney, and it was proved that for the last year and half the business of the deceased was chiefly managed by Ledlie.

[10] (b) This seems a doubtful proposition.

(c) By the 39th and 40 Geo. III, c. 79, s. 21, reciting that great inconveniences had arisen from the practice of granting letters of administration by the Supreme Court in cases where the next of kin, or any of the creditors of the deceased do not apply for the same, to persons calling themselves friends of the deceased, it is enacted that [11] letters *ad colligenda* or of administration shall in such cases be granted to the Registrar of the Court. Administration, therefore, is never granted now to 'friends' of the deceased. *Seyble*: the enactment is compulsory upon the Registrar, and upon the Court, *In the goods of Shelton*, *Montrieu's Rep.* 167.

[11] (a) See *Toller's Executors*, p. 106.

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.

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)

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.

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