

Upon the Chief Justice inquiring why the caveator had not appeared, her attorney answered that she was not in fact the next of kin, because the deceased had a widow and children in England.

Impey, C. J. Then that is the argument of the petitioner, Bulram. We have now in fact heard the argument on both sides.

[Upon this, Mr. Justice *Hyde*, in his notes observes :—

“ Sir E. Impey meant by this to recognise and confirm several decisions of the Court, made on his opinion, that a person to be entitled to obtain an administration of the [9] goods of a man deceased, must appear to be his next of kin in the whole world, and not merely the nearest of kin who was in these provinces, and applied for administration, and that a creditor had a better claim by our charter, which directs us to follow the practice of the diocese of London, (a) than any relation to the deceased, who was not the next of kin he had in the world. The reason given by the Chief Justice for this opinion always was, that the title of the next of kin to the administration arose from his title to the effects under the statute of distribution, and his consequent interest in collecting the effects, but that a relation, not being one of the next of kin, was entitled to no share of the effects, and for that reason such relation, more distant than one of the next of kin, had no more claim to the administration than a mere friend of the deceased.”]

Caveat disallowed.

IN THE GOODS OF HARRISON (1782).

Hyde's Notes, Mar. 14th, 1782.

Commission issued out of the Provinces, to swear in administrator.

HARE moved for a commission to certain persons at Cawnpore, to swear John Potter to the truth of his petition for administration with the will annexed.

[10] *Impey, C. J.* Cawnpore is out of the Provinces. How can the Court send a commission thither?

Hyde, J. It has often been done, and I think on this ground, that this kind of voluntary jurisdiction is exercised by all Ecclesiastical Courts in every part of the world, as well as within the local limits of their jurisdiction. Courts of equity do the like.

Impey, C. J. afterwards assented, and accordingly

Commission granted. (a)

[9] (a) The words of the 22nd clause of the Charter are :—“ to grant and commit such letters of administration according to the course now used, or which lawfully may be used, in the said diocese of London, to the lawful next of kin of such person so dying as aforesaid, and in case no such person then be residing within the jurisdiction of the said Supreme Court, or, being duly cited, shall not appear and pay the same, to the principal creditor of such person, or such other creditor as shall be willing or desirous to obtain the same.” In England, administration is grantable by custom to a creditor of the deceased, on the sole ground that he cannot be paid his debt until a representative of the intestate exists (1 Phillimore 177) : but it seems, that administration will only be granted to him failing every other representative, *Webb v. Needham*, 1 Add. 494.

[10] (a) See post. *In the Goods of Tricket*, tit. Executor.