

will, for a charging order on the property, real and personal, devised and bequeathed by the will in question, which had been duly established. The application was opposed by the beneficiaries under the will, and Grantham, J., refused to make the order. The Court of Appeal (Smith, Rigby and Williams, L.J.J.), however, held that the solicitor was entitled to the order, as the property in question must be deemed to have been preserved through his instrumentality. Williams, L.J., points out that under 20 & 21 Vict., c. 77, the granting of probate now binds the heir or other person interested in realty as well as those interested in the personalty, and therefore in a probate action both real and personal property may be said to be preserved by successful proceedings to establish a will.

BANKING—CROSSED CHEQUE—"NOT NEGOTIABLE"—DEFECTIVE TITLE—PAYMENT—BANKER, LIABILITY OF—"CUSTOMER"—BILLS OF EXCHANGE ACT, 1882 (45 & 46 VICT., c. 61), s. 82—(53 VICT., c. 33, ss. 80, 81, D.)

The Great Western Ry. Co. v. London & County Banking Co. (1899) 2 Q.B. 172, is a case illustrating the fact, that the crossing of a cheque and marking it 'not negotiable' is not an absolute protection to the drawer, against liability thereon, when fraudulently used by the holder. In this case a rate collector had been in the habit of receiving cheques for rates and cashing them at the defendants' bank, where he was known, but had no account. By falsely pretending that rates were due, he induced the plaintiffs to send him a cheque drawn to his order on a London bank, crossed generally, and marked "not negotiable." The cheque was cashed, and a part of the proceeds was applied according to the collector's request, and the balance was paid to him, and he misappropriated it. The cheque was subsequently presented by the defendants and paid, and the plaintiff, the drawer of the cheque, now sued to recover the amount of it from the defendants. The case principally turns on whether, under the circumstances, the rate collector could be deemed "a customer" of the defendant bank within the meaning of the Bills of Exchange Act, s. 82, (sec 53 Vict., c. 33, s. 81, D.). Bingham, J., who tried the case, found that the defendants had received payment of the cheque in good faith and without negligence for the collector, and were therefore entitled to protection under s. 82. The question of whether the collector was a 'customer' the learned judge held to be one of fact, and he found as a fact that he was.