

The motion was heard in the Weekly Court, London.

F. P. Betts, K.C., for the domestic administrator.

T. Coleridge, for the foreign administrator (appointed by a Court of the domicile).

W. R. Meredith, for the infant beneficiaries.

MIDDLETON, J., in a written judgment, said that the estate was insolvent. The Ontario assets were enough to pay Ontario creditors in full, but the assets abroad were not enough to meet the claims of the foreign creditors, and the question submitted was, whether the Ontario creditors must be paid in full and the balance then be remitted for distribution in the Court of the domicile, among the creditors there.

Since *In re Kløbe* (1884), 28 Ch. D. 175, the right of all creditors, whether domestic or foreign, to be paid *pari passu*, had never been disputed.

The learned Judge's own decision in *Re Donnelly* (1911), 2 O.W.N. 1388, was cited as being opposed to this. The note of the decision was misleading, as the facts were not stated. There was no suggestion of insolvency. The deceased had a summer residence in Ontario. The foreign administrator and the beneficiaries asked approval of a scheme by which the Ontario administrator should convey this property to the heirs, in consideration of certain lands in Pittsburg, owned by the heirs, being conveyed to the foreign administrator. The Ontario creditors, save a small number, had been paid in full, and the foreign administrator proposed to place with the Ontario administrator enough money to pay the balance remaining due. In that case the learned Judge refused to assume any responsibility for the scheme proposed, and directed the Ontario (ancillary) administrator to yield the assets to the administrator of the domicile as soon as the Ontario creditors were paid and its own charges and advances were repaid. This had nothing to do with the question now raised.

Order declaring that all the creditors should be paid *pari passu*; costs out of the estate.