

In order that the registration of a belated caution may have the same effect as the registration of an original caution the existing conditions must be the same. But here they are entirely different. In the case of the ordinary caution the estate had not yet shifted from the personal representative, and the object of the caution was to prevent it from so shifting. In the case of the belated caution, on the other hand, the estate had already shifted from the personal representatives to the beneficiaries, and what was required was, not some provision that should hold matters in statu quo for a further period, but some provision that should have the effect of taking the estate out of the beneficiaries and revesting it in the personal representative. How can the words of the Act, even by the most strained construction, be held to accomplish that? It is submitted, with all possible deference, that they cannot do so, and that nothing short of appropriate words of revesting in the statute can have that effect. The legislation on the subject has, apparently, entirely missed its mark. It is as though the legislature should purport to enact that a reprieve received by the sheriff after the criminal had been executed, should have the same effect as though received before that interesting event. No doubt, it is sufficiently apparent what the legislature meant to accomplish by the words they have used, but the simple fact remains that they have not done it. The fact that ever since the passing of the Act the words in question have by common consent been treated as effectually accomplishing the desired object, seems to be just one more instance of the good nature and complaisance of the judiciary and the profession towards the legislature.

It was plain what was intended to be done, and the matter has been generally accepted as though it had been effectually accomplished. It has been another case of taking the will for the deed.

We would venture to respectfully suggest that, when amendments are next made to the Act, appropriate words of revesting should be embodied.