

Ferguson, J.] IN RE BEATTIE, BEATTIE v. BEATTIE. [Dec. 22, 1898.

Administration—Insolvent estate of private banker—Claim for amount of promissory note collected—Priority—Appropriation.

Appeal by J. C. Thom, a creditor of the estate of John Beattie, deceased, from the report of the Master at Guelph, upon the administration of the estate, which was insolvent. The appellant was placed by the Master upon the list of creditors as an ordinary creditor. He appealed upon the ground that he was entitled to payment of his claim in full, in priority to other creditors. The appellant, shortly before the death of John Beattie, who was a private banker at Fergus, sent him two promissory notes with instructions to receive payment from and hand the notes over to the makers, and remit the amount paid to the appellant at Woodbridge. The deceased collected \$361.20 upon the notes, and drew a cheque for the amount upon the Traders Bank of Canada at Toronto in favour of the appellant, and sent it to him on the 20th March, 1897. There were funds to the deceased's credit in the Traders Bank, but he died on the 21st March, and the cheque being presented after his death, the bank refused to pay it.

Stearns, for the appellant, contended that there was an appropriation of the money in his favour by means of the cheque, citing *Farley v. Turner*, 26 L.J.N.S., Ch. 710, and *In re Earned's Banking Co.*, 39 L.J.N.S., Ch. 635; or that the deceased was simply an agent to transmit the money, and it never became his money, but was always the appellant's money, and could not be retained as part of the estate of the deceased for the benefit of the general creditors.

Fasken, for the executors, and *J. Grayson Smith*, for certain of the creditors, opposed the appeal.

FERGUSON, J. distinguished *Farley v. Turner* in view of the circumstance that there was no evidence here to show that the money collected by the deceased was deposited in the bank or set aside or ear-marked in any way. The other case cited was against the appellant. There was no specific appropriation in his favour, and he was in no better position than any other creditor. Appeal dismissed without costs.

Ferguson, J.] [Dec. 24, 1898.

IN RE TRUSTEES OF SCHOOL SECTION II, AMARANTH.

Public schools—Union school section—Alteration of boundaries—Five years' limit—R.S.O., c. 292, ss. 38, 43, 44.

In 1897 a township council passed a by-law altering the boundaries of an existing school section, and this was affirmed by the county council on appeal. In 1898 the county council, on appeal from the refusal of the township council to do so, appointed arbitrators to consider the advisability of forming a union school section from parts of the section in question and of another section, and an award was made setting apart the