

In the Matter of the Insolvent Estate of JOHN RAYNOR
MACQUINE PRESSLIE.

1895.
October 10.

D. C., Badulla, 86.

Insolvency—Assignee's report—Practice of tradesmen allowing credit to persons of slender means.

The District Court should, in all cases of insolvency, insist on having a report from the assignee as to the conduct and dealings of the insolvent before adjudicating on his application for a certificate.

Observations on the improper practice of tradesmen allowing credit to persons of slender means, and thus encouraging them to run up heavy bills which they have no prospect of paying.

THE facts of the case are stated in the judgment of his Lordship the Chief Justice.

Sampayo, for appellant.

Aserappa, for respondent.

10th October, 1895. BONSER, C. J.—

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In this case the insolvent, Mr. Presslie, appears to have been the Superintendent of Warburton estate in Badulla, and was in the

1896. receipt of a salary, first of Rs. 50 and then of Rs. 60 a month, on
October 10. which he was supposed to keep himself. On that salary he
 BONSEK, C.J. managed to run up bills with various tradesmen to a considerable amount. One of the principal creditors was Messrs. Walker & Greig, of Badulla, who are general storekeepers, and who allowed him to run up a bill for eatables and drinkables and other articles of over Rs. 600 in the course of a few months. Previously to that, he appears to have been in receipt of a larger salary of Rs. 140 a month, and during that time he ran up a bill with another storekeeper of Badulla of over Rs. 700. Whilst in receipt of this munificent salary of Rs. 50 a month, he also ran up an account with one Perera of over Rs. 100, with the Colombo Apothecaries' Company of over Rs. 200—for what, does not appear—and with Cargill & Co. and other persons for smaller sums. He was ultimately made insolvent on his own petition. Only two of his creditors proved: Walker & Greig and another creditor for over Rs. 700, one Packir Saibo. An assignee was appointed, but he has made no report. We consider that in all cases a District Court should insist on having a report from the assignee as to the conduct and dealings of the insolvent before adjudicating on his application for a certificate.

In this case the grant of a certificate was opposed by Messrs. Walker & Greig, on the ground that the insolvent had behaved with recklessness in contracting these debts—with such recklessness as to amount to dishonesty.

I must say that if the insolvent was reckless to the verge of dishonesty, he was aided and abetted by his opposing creditors, Messrs. Walker & Greig.

I have no sympathy with creditors who allow a man in receipt of a wretched salary like this to run up such a bill as this. If they lose their money they have only themselves to thank for it. But I think it is desirable that a District Court should not adjudicate on the question of a certificate without a report from the assignee.

Therefore, without going into the merits of the case at all, we direct that the order granting a certificate of the third class be discharged, in order that the District Court may re-consider the application on fuller and better materials than it had before it when it made the order.

The insolvent will have protection until the application has been disposed of.

WITHERS, J. WITHERS, J. —

I entirely concur in and endorse all the observations of my lord on the improper practice of tradesmen in allowing credit to persons of the slenderest means, and encouraging them to run up heavy bills which they have no present prospect of paying.