

a contingent liability was not intended unnecessarily to take the adjustment of the claim, in such a case as this, out of the insolvent course of procedure in which the estate is settled. The liability having ceased to be contingent, its amount and the creditors to whom the debt is now due may be determined by the commissioner to whom it was presented, or by another commissioner appointed for the purpose. The intention of the legislature may be carried out by an order of the probate court, either recommitting the claim to the commissioner, or sending it to another.

Another alleged reason of the administrator's appeal is, that the claim had not been filed in the probate court when the order for retaining funds was made. The decree from which the administrator appeals states that the claim was duly filed in the probate court: the commissioner's report mentioned the claim, and stated the admission of the administrator in regard to it, and no facts appear on which we can hold it was not filed. If necessary it can be filed now, and a new order for the retention of funds can be made.

However it may be in other cases, it is not necessary in this case that the claim should be examined and determined by the judge of probate instead of a commissioner.

Both appeals dismissed.

CARPENTER, J., did not sit; the others concurred.

NARRAMORE v. CLARK & Tr.

An attorney at law is chargeable upon trustee process for money collected by him in the course of his professional employment.

FOREIGN ATTACHMENT. The trustee is an attorney at law, and at the time of the service of the writ upon him had in his hands \$116.65 which he had collected on a debt for the defendant in the course of his professional employment. The question whether he can be charged for that sum was reserved.

Lane & Dole, for the plaintiff.

H. W. Brigham, for the defendant.

BLODGETT, J. A sufficient answer to the defendant's claim, that an attorney at law is an employé within the meaning of the statute (G. L., c. 249, s. 42) enacting that no person shall be charged as trustee for any funds which are held by him "in the capacity of clerk, cashier, or other employé of the principal defendant, and which have been received in the ordinary course of such employment," is the statute itself; for of whatever signification the term

“employé” may be susceptible (see *Gurney v. Railway Co.*, 2 N. Y. Suprm. Ct. (T. & C.) 453, *Wilson v. Gray*, 127 Mass. 99, *Gurney v. Railway*, 58 N. Y. 371; *United States v. Morris*, 14 Pet. 475), the sense in which the legislature used it in this statute is readily ascertained by the application of the familiar rule of statutory construction, that where general words follow particular ones, they are to be construed as applicable to persons or things of the same general character or class with those specified. For illustration, see, among other authorities, *St. Louis v. Laughlin*, 49 Mo. 559, *Rex v. Whitnash*, 7 B. & C. 596, *Reg. v. Reed*, 28 Eng. L. & Eq. 133, *State v. McGarry*, 21 Wis. 496, *Corey v. Bath*, 35 N. H. 538, and *Somers v. Emerson*, 58 N. H. 49. The addition of the general term “employé” after “clerk” and “cashier” brings this case exactly within the rule; and besides, it must be borne in mind that if the legislature had intended to include all employés, there was no occasion to make any enumeration whatever.

These considerations, and the further one that statutes conferring exemptions are to be strictly construed, make it entirely plain, in our opinion, that the exemption in question must be confined to the specific employés named in the statute, and to others of a like class or description; and it of course follows, both from the nature of his office and the character of his employment, that an attorney at law, as such, is not *ejusdem generis*, and does not answer the limitation.

And if this construction required additional support, we think it might be found in the probable cause of the exemption (see *Bank v. Railroad*, 58 N. H. 104) and its manifest object, as well as in the fact that a contrary construction would effect so radical a change in the long established process of foreign attachment that it would practically be available for the attachment of wages only; whereas the decided tendency of our modern legislation has been to increase and facilitate the exemption of wages from the operation of that process, while in other respects it has been enlarged and extended.

Trustee chargeable.

STANLEY, J., did not sit: the others concurred.

CHESHIRE COUNTY TELEPHONE CO. v. THE STATE.

A tax cannot lawfully be assessed against the property of a corporation when the stock of the corporation is at the same time taxed to its owners.

PETITION, for the abatement of a tax assessed by the state board of equalization, under the act of September 15, 1883.