

THE CHANCELLOR :

This case is submitted, and has been argued by counsel upon agreement and statement of facts, filed on the 20th of November, 1849, for the purpose of taking the opinion of the Court in reference to the right of the executor of Martha Young, who was the administratrix of Notley Young, to commissions claimed by John B. Brooke, Jr., the attorney employed by her to collect certain *choses in action* due the estate of her intestate. Upon the death of Martha, the administratrix, letters *de bonis non*, on the estate of Notley Young, were granted to Clement Young and C. C. Magruder, who, under the Acts of Assembly relating to the subject, claimed to have paid over to them the said *choses in action*, and this was done without prejudice to the right of the said Burke, to the usual commissions allowed attorneys upon collections. The statement of facts show that some of the claims had been reduced to judgment, whilst upon others suits had been brought, which were still depending.

The question presented by this statement is, whether the employment of an attorney to collect money, confers upon him the authority to proceed with the collection, notwithstanding his client may die, and the right to the claim devolve upon another, which latter may himself be an attorney, or may prefer intrusting the collection to some one else? I entertain no doubt, that under such circumstances, the party may change his attorney. The right is, I think, strongly implied in the case of *Henck vs. Todhunter*, 7 *H. & J.*, 275. Even when the title to the cause of action has not devolved upon another party by the death of him for whom the suit was brought, but when such is the case, and this other party is responsible, and is required to see that reasonable diligence is used for the collection of the money, it would seem impossible to deny him the privilege of selecting the agent to whom he may prefer confiding the duty.

I think, then, the administrators *de bonis non* had the right of placing these claims in whosoever hands they pleased for collection; but in the exercise of this right, justice should be