

George Riston. The bill states, that William Wyse was indebted to the plaintiffs S. Smith & Buchanan, in the sum of \$2,737.48, for sundry matters properly chargeable in account; that William Wyse, made his will in the following words:

“Baltimore, 12th March, 1814, having at this perilous moment of my life committed myself to the care of Almighty God, whom I trust will receive my soul, I have only to request my affectionate wife and son John, in case of a deficiency of my estate to support and educate my children, that my real estate, and now known by the name of the Deer Park, be disposed of for the maintenance of said children, under the direction and management of my wife Rachel, and John Wyse.”

The bill further states, that William Wyse afterwards, on the first of April, 1814, died so indebted, seized and possessed of a large real and personal estate, leaving a widow Rachel Wyse, and these

**30** defendants John M., William A., Eliza, Margaretta, Edward, \*Nicholas H., Matilda and Francis O. Wyse, his children and heirs-at-law; that this his will was proved according to law on the 12th of April, 1814, and administration with the said will annexed was thereupon granted to his widow Rachel Wyse, who took possession of his personal estate accordingly; and, by her first account, passed on the 29th of June, 1816, shewed a balance of assets then in her hands of \$5,712,34, and that the testator's widow and son John M. Wyse, filed a petition in this Court, admitting the claim of the plaintiffs S. Smith & Buchanan, and praying for the sale of the real estate as mentioned in the will. Upon which, on the first of October, 1816, it was decreed accordingly, that the lands be sold; but that the decree still remained unexecuted. The bill further states, that the plaintiffs S. Smith & Buchanan, being indebted unto the plaintiff Tessier, in the sum of \$4,500, on the 22d of January, 1820, assigned to him, in part satisfaction thereof, their claim upon the estate of William Wyse, deceased, which then remained wholly unpaid; and which claim, although passed by the Orphans' Court, the administratrix being then unable to pay, she, on the same day, gave her bond, with the defendant John M. Wyse as her surety, to the plaintiff Tessier, for the payment of \$4,325, with interest thereon, in one year from that time, that being the amount of both principal and interest of said claim then due; for which bond the plaintiff gave a receipt; but the said bond was accepted by the plaintiff Tessier, as an indulgence and benefit to the representatives of the testator, it being expressly understood and agreed by the parties, that the said obligation should not, in any way, invalidate or destroy the plaintiff Tessier's claim against the estate of the testator; that the bond not being paid when it became due, the plaintiff Tessier brought suits upon it; and at March Term, 1822, of Baltimore County Court, the administratrix Rachel Wyse, and this defendant John M.