

Wyse, confessed judgments, but the bond, from which alone the precise sum due could be ascertained, having been lost, the definite amounts were never entered up, and those judgments therefore still remain altogether inoperative. The bill further states, that on the 16th of May, 1822, the defendant William A. Wyse, being indebted unto the defendant Riston, in the sum of \$2,000, the said Rachel Wyse, with the defendants John M. Wyse, William A. Wyse, and Eliza Wyse, mortgaged their respective interests in the real and personal estate of the testator to secure the payment of the same to the defendant Riston; that afterwards Rachel Wyse \* departed this life; and after her death, on the 16th of July, 1823, letters of administration *de bonis non*, with the will **31** annexed of the testator William Wyse, deceased, were granted to the defendant Joseph Allender, who returned an inventory and appraisement amounting to \$2,293; that the difference which appears to be due to the testator's estate between the balance in the account rendered by the said administratrix Rachel Wyse, and the amount of assets returned by the administrator Allender, was expended in the maintenance, support and education of the testator's children.

Whereupon the bill prayed, that the administrator *de bonis non*, might set forth and declare what had become of the personal estate of the testator: that the said receipt might be delivered up to be cancelled; that the mortgage to Riston might be set aside in favor of these plaintiffs; that the defendants or such of them as were liable therefor, might be ordered to pay the plaintiff's claim; or in default thereof, that so much of the real and personal estate of the testator as might be necessary for the satisfaction thereof be sold; and that the plaintiffs might have such other relief as the nature of their case might require.

On the 8th of August, 1825, the defendant Riston put in his answer, in which he says, he cannot admit that the testator was indebted to the plaintiffs; but he admits that the testator made his will and died about the time stated, leaving a widow who administered on, and took possession of his estate; and also left the children as mentioned in the bill. This defendant says he knows nothing of the bill of complaint referred to as having been filed in this Court. But he admits that a bond was given as stated, which he avers was received by the plaintiff Tessier, in full satisfaction of his claim against the estate of the deceased. This defendant also admits the recovery of the judgments; but does not admit, that they are inoperative by reason of the loss of the bond of which he knows nothing. This defendant moreover admits, that the mortgage was made to him as stated; that Rachel Wyse is dead; that after her death, administration *de bonis non* was granted to the defendant Allender; but he does not admit, that the said difference in the amount of the personal assets was expended in