

the administratrix, *Jane Burch*, having died intestate, letters of administration on her personal estate were granted by the Orphans Court of Washington county, in the District of Columbia, to *Thomas Burch*; and on the same day, and by the same court, administration *de bonis non* of the effects of the late *Jesse Burch*, was granted to the same *Thomas Burch*; (a) that it had not been found necessary to make sale of those negroes to pay the debts of the late *Jesse Burch*; but, owing to the conduct of one of the sureties in the administration bond, *Kinsey Gittings*, they remained as a part of the surplus of his personalty to be distributed among his next of kin; that those negroes, with their increase, had been taken out of the possession of the late administratrix, *Jane Burch*, by *Kinsey Gittings*, and held by him during his life, and after his death had passed into the possession of *William Scott*, "who claimed to hold them in virtue of letters of administration granted to him upon the estate of *Kinsey Gittings*," and he had actually sold them in October, 1818, and received payment for them, amounting, as appears by his return of the sales, to \$2850; "which, with interest and a reasonable compensation for their services while in his possession, and in the possession of *Gittings*, the plaintiffs were justly entitled to demand of this defendant; that the defendant was about to distribute the money so received by him as a part of the assets of his intestate *Gittings*."

Upon these circumstances this suit was instituted by *Thomas Burch*, as administrator *de bonis non* of the late *Jesse Burch*, and in his own right, together with *Jesse Burch*, *Fielder Burch*, *Mildred* with her husband *James Johnson*, and *Kitty* with her husband *John Stephens*; which *Thomas*, *Jesse*, *Fielder*, *Mildred*, and *Kitty*, are the children, and next of kin of the late *Jesse* and *Jane Burch*, against *William Scott* alone. The plaintiffs prayed to have the defendant, *Scott*, considered as a trustee for their benefit; that a distribution of the negroes, or the proceeds of the sale, might be made among them; and that the defendant might be restrained by injunction

(a) Upon letters granted in the District of Columbia, the executor or administrator is, by the act of 1813, ch. 165, authorized to sue here; although upon such letters granted here, he cannot sue there, 1 *Cran.* 259. But no suit can be sustained here by any one, on letters of administration granted in a foreign country; 1 *Hayw.* 365; 3 *Bac. Abr.* 36; *Mif. Pl.* 155.; *Mollinson v. Bowley*, *MS.* 1806; or in any one of the States of this Union, 3 *Cran.* 319; 9 *Cran.* 151; *Kirk v. Brown*, *MS.* 1818. But the act of 1815, ch. 149, s. 4, authorizes the revival of an action at common law against an executor or administrator, to whom letters have not been granted here, and who "resides out of this State."