

departed this life; and after her death, on the 16th of July, 1823, letters of administration *de bonis non*, with the will 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 favour of these plaintiffs; that the defendants or such of them as were liable therefor, might be ordered to pay the plaintiffs' 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 the maintenance and education of the children of the deceased. And finally, this defendant submits, that by the negligence and misconduct of the plaintiff *Tessier*, he has lost all right to demand any portion of either the real or personal estate of the testator; and that his only remedy is against the person of the defendant *John M. Wyse* or his estate, if he has any, &c.