

his predecessor cited before the commissary and compelled to account. (*d*) But at present, the remedy against an administrator or his representatives, for any waste or misapplication of the effects of the deceased, is by an action at law upon his administration bond by any one interested. For it is expressly declared, that the authority conferred by letters of administration *de bonis non*, shall be to administer all things described in the acts as assets not converted into money and not distributed, or delivered, or retained by the former executor or administrator, under the direction of the Orphans Court. (*e*)

Hence this plaintiff is incompetent to demand, in the representative character in which he sues, any thing but those goods, chattels, and credits, which his letters authorize him to administer; that is, the chattels real and personal property of his intestate, which may be now shewn to remain undisposed of by either of the previous administrators, *John* or *Mary*; or which have been and continue to be held unaccounted for by any one as trustee or agent of the late *Anthony Hook*, his intestate. The statements and allegations of these original and amended bills must, therefore, be taken subject to the limited rights of the representative character of this plaintiff.

It appears that some of the next of kin of the late *Anthony Hook*, under an impression, that the chattels real of the deceased, had vested absolutely in them, have disposed of, or attempted to make a final disposition of the whole, as if such chattels real had been immediately cast into their hands by the mere operation of law, in like manner as the real estate of an intestate is at once cast upon his heirs. If these next of kin acquired, at once, by the act of the law alone, a legal right to these chattels real, by virtue of which they might, either concurrently with or independently of the administrator, dispose of them; then, as the joint or independent holders of the property in controversy, they ought to have been made parties to this suit. And, if they have acquired such a legal right, and have actually disposed of these chattels, then, it is no less evident, that all claim against these defendants is, so far, entirely at an end. In these points of view the allegations of the bill, in relation to these next of kin of the intestate, present some important preliminary inquiries.

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(*d*) 1715, ch. 39, s. 3; Dep. Com. Gu. 55, 57.—(*e*) 1798, ch. 101, sub ch. 14, s. 2; 1820, ch. 174, s. 3; *Wankford v. Wankford*, 1 Salk. 306; *Sibley v. Williams*, 3 G. & J. 52.