

then in her hands, in a due course of administration, so as to relieve herself from all liability. To discharge herself from all claims in respect of the assets thus admitted to have been in her hands, it certainly cannot be deemed to be incumbent upon her to do so by subsequent accounts passed by the Orphans Court; it would be sufficient for her to shew, by any kind of legal proof, that she had fully and properly administered the assets then on hand. There is here, however, no such proof of her having properly applied any portion of the assets held by her on the 29th of June, 1816. But all the peculiar circumstances of this case must be carefully considered in order to obtain a clear view of the manner in which the personal estate then in the hands of the administratrix *Rachel Wyse*, has been consumed and reduced to the amount now found in the hands of the administrator, *de bonis non*, *Allender*.

It appears, that the deceased debtor *William Wyse*, at the time of his death, was seised and possessed of a considerable real and personal estate, which passed into the hands of his widow as administratrix, and his eight children, now here as defendants, and who were his heirs and next of kin; most of whom were then under age, and all of whom have been maintained, and the minors educated, as we are left strongly to infer, from the estate by their mother and natural guardian, the administratrix; that the administratrix *Rachel Wyse*, with this defendant *John M. Wyse*, by their petition addressed to this court, before the institution of this suit, stated, that the personal estate of the deceased was not sufficient to maintain and educate his children; and therefore they prayed to have the tract of land called Deer Park sold, as directed by him for that purpose; which was decreed accordingly; thus distinctly giving the court to understand, in that suit, that the mother and natural guardian of these infants had, had no hesitation in applying the personal assets, in her hands as administratrix, to their maintenance and education. And it further appears, that this plaintiff *Tessier*, had pressed for the payment of his debt, by suing and obtaining judgments upon his collateral security, which judgments have, by accident, been left wholly ineffectual. Hence, although it is not directly shewn how the children were maintained; yet on looking to the nature of the estate as described in the inventories and proceedings, and to the probable cost of maintaining and educating them for about eight years, the irresistible presumption is, that the amount of the difference between the assets shewn to have been in the hands of *Rachel Wyse*, on the 29th of June, 1816, and