

Case No. 4,705. FAXON ET AL V. DYSON'S ADM'RS.
[1 Cranch, C. C. 441.]¹

Circuit Court, District of Columbia.

July Term, 1807.

EXECUTORS AND ADMINISTRATORS—JUDGMENT DE BONIS TESTATORIS.

A promise by an administrator to pay in consideration of assets, will support a judgment de bonis testatoris.

The declaration stated that, in consideration of assets, the defendants promised to pay as administrators, &c. General demurrer.

Mr. Youngs, for defendants, contended that the undertaking was personal, and ought not to be charged as made by them as administrators. The judgment will not bind the estate of the intestate. The judgment in this case must be of the defendants' own goods. No admission or promise of an administrator can bind the estate, so that judgment can go against the goods of the intestate.

E. J. Lee, for plaintiffs [Faxon & Co.], cited *Atkins v. Hill*, Cowp. 284, and *Hawkins v. Saunders*, 1 H. Bl. 102, 103, 112.

Demurrer overruled. Judgment for the plaintiffs, de bonis testatoris.

[NOTE. See *Gilpin v. Crandell*, Case No. 5,449.]

¹ [Reported by Hon. William Cranch, Chief Judge.]