

creditor of the firm, insisted by his petition on the receiver being continued.

BLAND, C., 24th April, 1826.—This case standing ready for hearing on the motion to rescind the order appointing a receiver, the counsel on both both sides were heard, and the proceedings read and considered.

There have been, of late, many applications to this Court for the appointment of a receiver. The power of making such an appointment, by some, has been contemplated as, at least, a new exhibition of the jurisdiction of this Court. It seems to have been considered in the argument as one of an unsettled and questionable nature. That it is a power which has not, until of late, been very frequently resorted to may be admitted; but, there can be no doubt of its being an authority properly belonging to this Court. In an order, passed about twenty years ago, the then Chancellor speaks of the power, as one which rightfully belonged to the Court, and respecting which there was then no question whatever. *The Wharf Case*, 3 Bl. 361. It is a power of the Court of Chancery of England, which appears to have been very frequently called into action during more than a century past. All the leading principles in relation to it were well established there, long before our Revolution; and it was then, and has ever since been considered, there and here, as a power of as great utility as any which belongs to a Court of Chancery. And, that it is so, will appear very evident, from a review of the nature, and the variety of the exigencies in which it has been called into action; either to prevent fraud, to save the subject of litigation from material injury, or to rescue it from inevitable destruction.

Much the greater number of the English reported cases, concerning receivers, relate to real estates, and most frequently are such as have arisen between mortgagors and mortgagees. In almost all of them the office and duty of the receiver have been

421 * extended no further than to exclude trespasses, to make such repairs as are indispensably necessary, and to collect and account for the rents and profits. But where the preservation of personal property has been the object, the receiver has been in many respects, invested with the authority of a *curator bonis* of the Roman law. He has been directed to take into his possession all the movables; and if any were of a perishable nature, to sell them. He has been directed to collect and sometimes to pay debts. Where there has been a breach of duty by a partner, a receiver has been appointed and charged with the winding up of an unsettled commercial concern. *Peacock v. Peacock*, 16 Ves. 49; *Harding v. Glover*, 18 Ves. 281. And in all cases he has been held bound to render a strict account of his stewardship. A receiver is an officer of the Court. He is considered as truly