

It states, that on the first of July, 1822, a partnership was formed under the firm of Tongue & McPherson, between the intestate of the plaintiff and the defendant, which was carried on until the first of November, 1825; of the profits of which Tongue was to have two-thirds and McPherson one-third. That immediately on the dissolution of this firm they entered into another co-partnership, the profits of which they were to share equally under the firm of Thomas T. McPherson & Co. which continued until Tongue's death; which happened on the 2d of January, 1826. After which letters of administration on his estate were granted to this plaintiff. That both of these firms were largely indebted; that the stock of goods remaining on hand, and in the possession of the defendant, was very considerable; which, with the debts due to them, if properly managed, would be sufficient to satisfy all the claims against them and leave some surplus. That the defendant, although frequently requested, had not exhibited to the plaintiff any statement of the transactions of those firms. That the defendant, since the death of the plaintiff's intestate, had continued to carry on business, and was selling the stock of goods belonging to the two firms without taking any inventory thereof; or in any * other manner ascertaining the amount, quantity, or value of the partnership effects. That the defendant has **530** no property; except his interest in those co-partnerships; and his conduct had been such as to hazard the interests of those joint concerns, and was calculated to injure the estate of the plaintiff's intestate, and to expose it to loss and waste; and that the defendant's selling the partnership property and effects at retail was improper, because it should be sold at public sale.

The bill then prayed for an account; the plaintiff thereby offering to admit the defendant as a creditor of the estate of his intestate for whatever might appear to be due to him from those joint concerns; for general relief; and for an injunction commanding the defendant to refrain and surcease from selling the goods, property, and effects belonging to either of the co-partnerships, and also from collecting and receiving any of the debts due and owing thereto, &c.

On the same day the defendant put in his answer, in which he admitted, that the two partnerships had been formed and carried on; and were largely indebted as stated: that the goods which came to his possession as surviving partner, and were then on hand, would amount, if sold at retail upon short credit, to about \$2,000; but, if forced into market, and sold at auction for cash, would not command any price near their original cost. That without great care and diligence in winding up the two joint concerns, their effects would not be sufficient to meet the claims against them; that the stock of goods on hand was the only effectual means which the defendant had, to meet the urgent demands