

occasion, could only be vindicated by an unusual and pressing emergency, which would leave it no alternative. The absolute necessity of putting its hand at once upon the property, to save it from destruction or loss, must be clearly shown, or in the language of Lord Eldon, "fraud or imminent danger, if the intermediate possession should not be taken by the court, must be clearly proved."

In this case, as before observed, there can be no doubt that the facts charged in the bill do present an aspect of imminent danger, and contemplated, if not actual fraud, which would constitute the judicial necessity that would justify the court in putting forth its power to preserve the property, by the strong measure of taking possession of it; though by so doing the business of the defendants, as merchants, would be broken up.

But the facts charged in the bill are denied by the answer of the *Diffenderfers*, and though a strong effort has been made to break down the answer, by exhibiting supposed inconsistencies and contradictions in its several statements, and dwelling with emphasis upon the improbability of some of the facts averred in it, I cannot, after a careful examination, bring myself to the conclusion, that it is not entitled to the weight usually allowed to answers in chancery.

I do not find in it any statements which may not reasonably be reconciled with other statements contained in it; and with regard to the argument founded upon the assumed improbability of its truth, it may be observed, that the defendants have spoken under the solemn responsibility of an oath, and with all the penalties, temporal and eternal, of perjury, full before them. Under the weight of these heavy sanctions, they have denied each and all of the allegations of the bill, upon the admission or proof of which, the right of the court to appoint a receiver depended.

It has been urged, that with respect to some of the statements of the answer, though responsive to the bill, the defendant should be required to offer proof in their support; because such proof was within their reach, whilst it was inaccessible to the complainants. But I apprehend, the rule that the answer,