

The case was referred to the Chancellor, before the answers of the defendants were filed, who said :]

THE CHANCELLOR :

The bill in this case prays for the appointment of a receiver, and the application is made to the court prior to the coming in of the answers, and also prior to the time when the defendants by the rules of the court can be considered as in default for not answering. In strictness, a receiver should not be appointed until after the answer, and although the rule has been broken through, that such an appointment will not, under any circumstances, be made before answer ; the grounds which will induce the court to disregard the old rule, must be very strong and special. It must appear, that the claimant has a title to the property, and the court must be satisfied by affidavit, that a receiver is necessary to preserve the property from loss. 2, *Daniels' Ch. Prac.*, 1974, and note ; *Bloodgood vs. Clark*, 4 *Paige*, 574.

Indeed it is believed, the authority and duty of the court to appoint or not appoint a receiver, depends upon the question whether the property is or is not in danger in the hands of the party who may at the time be in possession. As was said by the court in the case of the *Orphans Asylum Society vs. M^r Carter et al.* in 1 *Hopkins*, 422, "a receiver is proper if the fund is in danger, and this principle reconciles the cases found in the books. There is no case in which the court appoints a receiver merely because the measure can do no harm."

In conformity with what seems to me the established rule upon this subject, that a receiver will not be appointed unless it appears that such a measure is required to preserve the property from danger of loss, the late Chancellor remarked in *Hannah K. Chase's case*, 1 *Bland*, 213, "but unless she [the complainant] has also shown that the rents and profits are in imminent danger, a receiver cannot be appointed." And in the case of *Lloyd vs. Passingham*, 16, *Vesey*, 59—70, Lord Eldon, speaking of the reluctance with which the court interferes by appointing a receiver, said, "the court must not only