

be satisfied of the existence of the fraud, but it must be morally sure, that upon the hearing of the cause, the party would, upon the circumstances, be turned out of possession ; and not only that, but it must see some danger to the intermediate rents and profits.”

It seems to me, therefore, indispensably necessary, that when an application is addressed to the court to appoint a receiver, either by the bill, or by petition subsequently filed, that a sufficient foundation must be laid, by stating the facts which will authorize the interference of the court in this form. *Tomlinson vs. Ward, 2 Cown, 396.*

The bill in this case, after stating the title of the complainants, and showing their interest in the property, which it may be conceded would be sufficient to authorize the appointment of a receiver, if the property were alleged to be in danger, proceeds to set forth the grounds upon which the application rests, which are, that after the death of Catharine Ann Walker, the tenant for life, the said Sater P. Walker wrongfully took possession of the said property, and ever since has appropriated the rents and profits thereof to his own private purposes, and has always refused, though urgently requested so to do, to pay over the rents according to the express intention of the said deed of trust, so that the chief and only object of said deed is entirely defeated and annulled. But the bill does not state that Walker, the party alleged to be in the wrongful possession of the property and in the enjoyments of the rents and profits, is insolvent, or unable to account for the same, or that without the appointment of a receiver, these rents and profits are in danger of being lost to those who may ultimately appear to be entitled to them ; and the absence of any such averment, in my opinion, is, upon the principles which govern this court in applications like the present, fatal to the success of the application, which consequently cannot be allowed.

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[No appeal was taken from this order.]