

the hands of an officer of its appointment, and under its control, this large estate ; that officer, by the death of the lunatic, was *functus officio* ; he could no longer act as committee in receiving rents, collecting money, or performing any act appertaining to his office. The Court could not discharge itself, or the committee, of the possession of the estate, until some one should appear entitled to receive it, and there was reason to believe that some time would elapse before any one so entitled would appear. Under these circumstances, it may certainly be maintained with some degree of plausibility, that an order passed in the same cause, directing the estate to be handed over by one officer of the Court, whose powers were at an end, to another, who could take care of and receive the rents and income of the property, for the benefit of the parties who may be entitled, was not new business within the meaning of the Constitution, but the exercise of the conservative power of the Court, and a duty thrown upon it by the proceedings in the lunacy cause. The order appointing the receiver, determined no question of right, nor did it interfere with any remedy previously open to the parties. No new parties were necessary to be made. It was simply an application to the Court in the cause, then, for certain purposes depending in it, to take the property out of hands powerless for its useful management, and transfer it to another officer, who could not only preserve it from waste and destruction, but who would be at liberty, and required to receive and accumulate its accretion, until some person should appear to whom it could be committed.

It appears to me that it is by no means clear, that such a proceeding for such a temporary and useful object, adopted in a cause actually depending in the Court for some purposes, is the institution of new business within the intent and meaning of the Constitution. In ordinary cases, the appointment of a receiver is ancillary to the main object of the cause. The object is to preserve the property in controversy until the Court shall determine the question of right between the parties. But in this case it never was in the contemplation of the Court, to determine any such question. It was only pro-