

long reposed in him, and to which he is consequently entitled in the eye of this court.

The next transaction relied upon to justify the appointment of another person to wind up the affairs of this partnership, has regard to the stock alleged to be held by the firm in what is called the Baltimore Eagle Works, and the proof of Mr. Gist.

It is said by the defendant, that an inspection of the books will entirely and satisfactorily explain this transaction, and will show that this stock was not partnership property, but the property of the individual partners. The complainant's counsel resists the right of the defendant to refer to the books for this purpose, upon the ground that those books were not filed in the cause as evidence, but were merely brought in by the defendant to be made evidence if the plaintiff chose to do so. Without considering this question at this time, and conceding that the transaction in relation to the stock in question requires explanation, I do not think it can have the conclusive effect imputed to it, and that all the consequences of a fraudulent concealment of property are to be visited upon the defendant. It is to be recollected that in the paper maked exhibit A, which purports to be a full statement of the funds and property of the firm, an interest in or claim against this company is set down among the assets, thus directly inviting the attention of the complainants to it. Now is it reasonable to suppose if the fraud imputed to the defendant was contemplated by him, that he would have put the opposite party upon the track, by pursuing which, exposure was inevitable. It is true, such fatuity is sometimes seen in the affairs of life, and frauds apparently shrouded in impenetrable mystery are brought to light by conduct wholly irreconcilable with the cunning with which they were perpetrated. But still it cannot be denied that this pointing the adverse party to the source from which the fraud, if committed, might readily be detected, is a circumstance from which a presumption favorable to the defendant should be drawn.

One of the arguments principally relied upon to show a want of capacity or integrity on the part of the defendant, and that consequently he is unfit to be trusted to wind up this partner-