

business, and that if the partner going out has no property to be thus exposed, the principle cannot apply. *Collyer on Part.*, 181, 182. The case of *Crawshay vs. Collins*, 2 *Russell*, 325, cited by the counsel for the plaintiff was a case in which the bankrupt partner, (whose assignees were allowed to participate in the profits made by the continuing partners subsequently to the bankruptcy,) was entitled not only to a share of the profits during the continuance of the partnerships, but to a proportion of the *capital* also. In deciding that case, *Lord Eldon* said, "the continuing partner has made profits by the use of the funds which belonged to the partnership itself, and although he added other funds of his own, yet as he put the partnership fund in hazard, the addition of his own funds should not bring to him and take away from others all the profits which have arisen from the property of the original partnership, which was in truth the foundation of the concern." He further observed that his opinion was founded upon the particular circumstances of that case, and was not to be regarded as laying down a principle for the decision of other cases.

Besides, the partnership in the case of *Crawshay vs. Collins*, was founded upon a parol agreement for an indefinite period, and of course contained no provision for its dissolution. It was, in fact, terminated by the bankruptcy of one of the partners, after which the business was carried on by the others, and profits made, in part, at least, out of the pre-existing capital, and the Lord Chancellor dwelt upon this circumstance, and upon the importance that all partnerships should subsist upon written articles, "and that they should lay down a clear rule in what way the interests of the partners in the different events that may occur are to be disposed of." The Chancellor also made the additional observation, which was, that "the rule which is to be applied must be deduced in almost every case from the particular circumstances of that very case."

Now, looking to the circumstances of this case, to the fact that the whole capital was furnished by the defendants; that the complainant, (estimating the stock on hand at prices above those it probably sold for, and assuming the debts due the firm