

as a means of winding up the affairs of this partnership in safety, and with justice and equality to all concerned. (j)

It follows as a necessary consequence of appointing a receiver before answer, that the selection of the person to be appointed must be made by the Chancellor on the *ex parte* recommendation of the party applying for the appointment. In England, the selection of a suitable person is, most commonly, referred to a master, by whom both parties may be heard; but here, that duty must be performed by the Chancellor himself. And, in this case, the selection of a suitable person, as well as every other matter in relation to the application for the appointment of a receiver, is now as entirely open for consideration as if nothing had been previously done. The appointment that has been made may be rescinded; the continuance of a receiver may be altogether refused; or the appointment may be now made more suitable to the circumstances of the case.

The recommendations of those most interested, and who are most likely to sustain injury without an appointment of a receiver, have generally been most regarded. The being a near relation of either party is not in itself an absolute disqualification, but it must be allowed to have its weight when connected with other circumstances.

In this case I am of opinion, that the present receiver, *David Williamson jun'r*, ought to be removed. Jealousies have been excited against him. He is the brother of one of the parties, and the son of one who claims to be a large creditor of the firm. He is admitted by the plaintiff to have taken an active part in this controversy as his agent and friend. And he is charged by the defendants with having been active by undue means to their great prejudice. His feelings and affections appear to have become too much enlisted to permit him to be as unbiassed and impartial as a receiver ought to be in winding up the partnership affairs of these insolvent debtors.

*Jacob Schley* has been recommended by some of the creditors, or those who allege, that they are creditors of the firm; and the counsel of these litigating parties admit him to be in all respects capable and fit; I shall therefore appoint him. This receiver will, as usual, be at present invested with no other authority than to receive and take care of the effects of these insolvents; but any