

same time the receiver reported, that he had a considerable sum in his hands, as to the disposition of which he prayed the order and direction of the court.

21st July, 1826.—BLAND, *Chancellor*.—Upon these petitions of those who present themselves in this suit as creditors of the firm of *Wilson, Williamson & Co.*, it becomes necessary to consider this case in a new point of view; and to determine its general character, as well in relation to the original litigants, as to those who now propose to be admitted as parties, and have a control over its future course.

The bill states, that a partnership had been formed and conducted for some time between the plaintiff and the defendants, and that the firm had, just previous to the institution of this suit, become insolvent, these facts have been admitted by the answer. These original parties are then, at least to the extent of their joint concern as merchants, to be considered as insolvent debtors; as such they must, in equity, be regarded as mere trustees for the benefit of their creditors; and therefore neither of them can be allowed to derive any pecuniary advantage to himself from this suit. The proper and sole object of this bill is to have the funds of *Wilson, Williamson & Co.* collected and distributed, so far as they will go, among the creditors of the firm in satisfaction of their claims, according to the principles of equity. This matter has been brought here by insolvent debtors for the purpose of obtaining a partial discharge from the claims to which they are liable, and in that way to procure some relief to themselves. But the whole pecuniary benefit of the suit, must, according to their own admissions, be awarded to their creditors. The mere form and phraseology of the bill cannot materially affect the nature of the case which it brings before the court; and hence, although this is not a suit instituted by a creditor either for himself alone, or for himself and others, against his insolvent debtor; or against the representatives of his deceased debtor to have his real and personal assets administered for the benefit of his creditors; yet it is a suit which, by the express admission of the insolvent parties, has placed under the control of the court a considerable fund for the benefit of those who are the creditors of the plaintiff and the defendants jointly. It must therefore be considered in all respects as a creditors' suit; and these petitioning creditors must be allowed to come in as parties; and all the other creditors of this firm must be called on by a public notice, in the usual form, to bring in the vouchers of their