

at that time, for the purpose of ascertaining the condition of the partnership, and the rights of the respective partners to the joint property.

The *second* and *third* propositions determined by the Chancellor relate to the question, as to what extent and for what purposes the real estate of this partnership was to be treated as converted into personalty? We consider it as now established, by at least a preponderance of authority, and upon proper and just grounds, that the whole partnership estate, whether consisting of real or personal property, is to be regarded in the view of a court of equity, as a consolidated fund, to be appropriated primarily and exclusively to the satisfaction of all the partnership engagements. In *Fereday vs. Whightwick*, 4 *Con. C. R.*, 319, the master of the rolls said—"The general principle is, that all property acquired for the purpose of a trading concern, whether it be of a personal or real nature, is to be considered as partnership property, and is to be first applied accordingly, in the satisfaction of the demands of the partnership."

In *Hozie vs. Carr*, 1 *Sum.*, 183, Mr. Justice Story, in delivering the opinion of the court, says:

"A question often arises, whether real estate purchased for a partnership is to be deemed for all purposes personal estate, like other effects. That it is so as to the payment of the partnership debts, and the adjustment of partnership rights, and winding up the partnership concerns is clear, at least in the view of a court of equity." And again he says:

"The question, however, in the present case, is not whether real estate, when it is partnership property, becomes to all intents and purposes, in cases of intestacy and wills, personalty, but whether it be so treated in equity as between the partners themselves and the creditors of the partnership. It seems to be the established doctrine of courts of equity, that it is to be treated as personalty, as between the partners and their creditors, in whosoever name it may stand on the face of the conveyance." This principle is sustained by the cases of *Dyer vs. Clark*, 5 *Medf.*, 562; *Howard vs. Priest*, 5 *Medf.*, 582, and