

Upon a careful consideration of the whole case, therefore, I do not feel myself at liberty to grant the relief prayed by these bills. The parties by their counsel have signed and filed an agreement that the proof taken in the first of the foregoing cases may be used in the second cause, as if taken in it, and for dividing the expense of executing the commission between the two causes which have been argued together, and depend upon the same principles. They will, therefore, be consolidated, and the bills dismissed, but under the circumstances they will be dismissed without costs.

WILLIAM M. ADDISON, for Complainant.  
CHARLES H. PITTS, for Defendants.

JOHN W. WALKER, ADMINISTRATOR  
OF  
SAMUEL HOUSE ET AL  
VS.  
WILLIAM A. HOUSE.

MARCH TERM, 1848.

[PARTNERSHIP—PARTNERS—RECEIVER—INJUNCTION—PRACTICE.]

A RECEIVER will not be appointed upon the application of the representatives of the deceased partner against a surviving partner, unless the latter has been guilty of mismanagement and improper conduct.

If both partners are dead, and the representatives of one institute a suit for an account against the representatives of the other, the court will, as a matter of course, appoint a receiver.

Where both parties are alive, and either has a right to dissolve the partnership, and the agreement between them makes no provision for closing up the concern, equity will, as of course, appoint a receiver if they cannot arrange the matter between themselves.

Each partner has an equal right to the possession of the partnership effects, and to collect and apply them in satisfaction of the debts of the firm.

The surviving partner has, by law, a right to the custody, care, and management of the joint estate, and a court of equity will not take the business of settling it up from him, and appoint a receiver, unless confidence be destroyed by his mismanagement or improper conduct.

The surviving partner alone can sue or is suable at law upon claims duo to and by the firm, the executor of the deceased having a right to insist upon the