

application of the joint property to the payment of the joint debts, and a division of the surplus.

If the surviving partner *does not* within a reasonable time account with the executor of the deceased, and come to a settlement with him, equity will interfere in an effectual way, to prevent injury to the representative of the deceased.

A court of equity will interfere, by the appointment of a receiver, with much less reluctance in the case of a partnership which has closed, than during its continuance.

In the case of a subsisting partnership, the court will never, on motion, appoint a receiver unless it appears that the plaintiff will be entitled to a dissolution at the hearing.

Upon the death of one partner, it is the duty of the survivor to cease carrying on the business of the firm; his authority from that time is limited to winding up the affairs of the partnership, and to this end he may receive the debts due to, and apply the assets in discharge of the debts due by it.

If he passes this limit, and undertakes to carry on the partnership business, or engage in new transactions, contracts, or liabilities, it is an abuse for which the court would be justified in appointing a receiver.

The death of one partner puts an end to the partnership from the time of the occurrence of that event, whether known or unknown, or whether third persons have or have not notice thereof, and any new obligations bearing the partnership signature are not binding on the firm, but only upon the surviving partner who signed them.

The executor of a deceased partner has the right to insist that the value of the property of the firm shall be ascertained by a sale; the survivors have no right to take the whole property, do what they please with it, and settle with the executor upon a calculated value.

Where an injunction is granted to preserve the property of a partnership from waste, until the application for a receiver can be heard, its continuance must depend upon the fate of the latter application; if the receiver be refused, the injunction must be dissolved.

The appointment of a receiver does not merely carry with it an authority to sell the remaining stock of the firm, but confers the general power to take possession of its books, papers, and effects, to receive its outstanding debts, and wind up its affairs.

Such appointment completely displaces and supersedes the authority of the surviving partner, putting the receiver in his place, and clothing him with all the rights and duties which the law confided to such partner.

Where an order appointing a special Auditor required him, before acting, to take an oath for the faithful performance of the duties of his office, it must appear in his report that he did take the oath; otherwise, his proceedings are wholly irregular, and the accounts stated by him cannot furnish the foundation of a decree.

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[The original bill in this case was filed on the 1st of May, 1848, by the administrator, widow, and heirs at law, of Samuel House, deceased, and charges that in 1835, the deceased formed