

The present, then, being the case of a bill filed by the representatives of a deceased against a surviving partner, the fate of the motion for a receiver must depend upon the result of the attempt upon the part of the complainants to convict the defendant of improper conduct in the management of the business of winding up the affairs of the concern.

There can be no doubt that upon the dissolution of this partnership by the death of the senior partner, that it was the duty of the survivor thenceforth to cease altogether from carrying on the trade or business in which the parties had been before engaged. His authority from the period of the death of the deceased partner was limited to winding up and settling the affairs of the partnership, to which end he was authorized to receive the debts due to, and apply the partnership assets and effects in discharge of the debts and other obligations due by it. If he passed beyond this boundary, and undertook thereafter to carry on the partnership trade or business, or engage in new transactions, contracts or liabilities, on account thereof, it was an abuse for which the court might be justified in appointing a receiver. *Story on Part., secs. 322, 342, 343, 344.* But is there in this case any satisfactory evidence of such misconduct? The bill charges various acts of misconduct, but those are all denied by the answer except two, which are explained and justified. It is to be recollected in this case, that the connection in business between the deceased and the surviving partner, commenced as far back as the year 1829, and continued uninterruptedly from that time to the death of the elder Mr. House, in the month of January of the present year. Though the firm had changed twice during the period by the introduction or retiring of other parties, the relation between these parties remained unbroken during this long period. It is true, it appears, that on or about the 1st of January, 1847, the elder House fell into a state of mental and bodily infirmity which incapacitated him from that time to his death from attending to his affairs, but from the year 1829 to 1847, a period of eighteen years, there is nothing to show that he was not in the full possession of his faculties of mind and body, and that he did not give every necessary and proper attention to his business.