

improper conduct, and show that he cannot be safely entrusted with the joint estate. And unless this is satisfactorily established, the court, according to *Mr. Gow*, will not exercise its power and appoint a receiver to collect in, and dispose of, the property. *Gow*, 382.

But although, according to the authorities, the legal title in the property of the partnership, in the event of the death of one survives to the others, the beneficial interest does not so survive, and it is the duty of the survivors within a reasonable time to settle up the business and account with the executor of the deceased for such interest, and if they fail to do so, a court of equity will grant an injunction restraining them from disposing of the joint stock and from receiving the outstanding debts. *Gow*, 378, *Story on Part.*, sec. 322, note 1. And the executor has a right to insist that the value of the property of the firm shall be ascertained in the way in which it can be best ascertained, by a sale. The surviving partners have no right to take the whole property, do what they please with it, and settle with the executor upon a calculated value. *Crawshay vs. Collins*, 15 *Ves.*, 218, 226; *Story on Part.*, sec. 322, note 1. The defendant in his answer expresses the opinion that the stock of this partnership can be disposed of at private sale most advantageously, but at the same time declares his willingness, if the administrator of the deceased partner desires it, and the court so direct, to sell the whole at public sale.

Samuel House, the deceased partner, died in the month of January of the present year, and the bill in this case was filed on the first of this month, being but four months from the death of the deceased partner. It is quite clear, therefore, that a reasonable time has not been allowed for adjusting the business of the concern, and on that ground, there is no foundation for the interposition of the court in the form in which its power is invoked. And as the charge of insolvency against the surviving partner is most explicitly denied by the answer, it is impossible to say that there will be danger in confiding to him the management of the joint estate, which the law confessedly devolves upon him.