

extended no further than to exclude trespassers, to make such repairs as are indispensably necessary, and to collect and account for the rents and profits. But, where the preservation of personal property has been the object, the receiver has been, in many respects, invested with the authority of a *curator bonis* of the Roman law. He has been directed to take into his possession all the moveables; and if any were of a perishable nature, to sell them. He has been directed to collect and sometimes to pay debts. Where there has been a breach of duty by a partner, a receiver has been appointed and charged with the winding up of an unsettled commercial concern.(b) And in all cases he has been held bound to render a strict account of his stewardship. A receiver is an officer of the court. He is considered as truly and properly the hand of the court; but his appointment determines no right; nor does it affect the title to the property in any way; it will not even prevent the running of the statute of limitations. The holding of the receiver, is the holding of the court for him from whom the possession was taken; therefore, should any loss happen it must be borne by him from whom the property was taken, not by the party at whose instance the receiver was appointed.(c)

But it has been argued, that a measure so prompt and vigorous, as that which has been adopted upon the present occasion, may be applied to the most pernicious purposes; that it is open to the greatest abuse; and that the consequences of such a procedure among commercial people, may become most mischievous and irreparably ruinous in its operation. I have meditated upon what has been urged in this respect.

That this court should have the power in unusual and pressing emergencies, at the instance of a party interested, effectually and without delay to put its hand upon property, so far as to prevent waste, inextricable confusion, or total destruction, seems to be admitted by all to be clearly right, or at least highly beneficial. The apprehension of abuse from such a power, when exercised by means of a receiver, seems to have arisen from a contemplation of the circumstances of this case. These parties were merchants, who had been extensively engaged in trade in the great emporium of our State. And, any merchant, it has been said, by means of this power of the court of chancery, may have his counting-house

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(b) *Peacock v. Peacock*, 16 Ves. 49; *Harding v. Glover*, 18 Ves. 261.—(c) *Pow. Mort.* 294, note; 2 *Mad. Chan.* 233.