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By Willard P. Barrows

As receivership is a legal proceeding, it is well to ascertain briefly something of its history and what is the settled law on the subject in this country. I shall quote principally from Alderson on *The Law of Receivers.*

The remedy by the appointment of receivers originated exclusively in equity and is at this time, aside from statutory provisions, administered only by courts of equity, which were first established by Roman prætors. But the administration of justice through receivers has been known less than two centuries, and only for a century past has the remedy by appointment of receivers been frequently invoked.

The power to appoint receivers was exercised by the court of chancery of England, where the fundamental principles relative to such power were well established before the independence of the American colonies. In both England and America the administration of justice by the appointment of receivers has been and is considered of as much importance and utility as any power inherent in courts of equity.

The greater numbers of early English cases concerning receiverships relate to real estate litigation between mortgagors and mortgagees, and it may be said that the earliest appointments of receivers were for the preservation and protection of lands, in which the duty of the receiver was chiefly, if not exclusively, to prevent trespass, to make necessary repairs and to collect and account for the rents and profits. But as to personal property, receivers were, as now, in many respects invested with the powers of a curator bonis of the civil law. They were empowered to take into their possession all things movable, being the subject of the litigation, and, if perishable, to sell them. They were directed to collect and sometimes to pay debts. The judicial authority to deal with property by means of a receiver is not unlimited or absolute.

So useful and necessary has the remedy through receivers proved to be that resort to it is now of daily occurrence, and has become so frequent as to prompt the declaration: "This is the day of receivers, and their dominion seems to be rapidly extending all over the land."

* An address delivered before the Pennsylvania Institute of Certified Public Accountants, Philadelphia, November 18, 1915.

A receiver, generally speaking, is one to whom anything is delivered by another. But the use of the word in reference to the subject means a ministerial officer of a court of chancery, appointed as an impartial and indifferent person between the parties to a suit to take possession of and preserve, pendente lite, and for the benefit of the party ultimately entitled to it, the fund or property in litigation, when it does not seem equitable to the court that either party should have possession or control of it.

The office of receiver is treated as one of confidence and trust, whose powers are conferred and defined by the order of the court. In the Pennsylvania case of *Schwartz vs. Keystone Oil Company*, the court said: "A receiver is the officer, the executive end, of a court of equity. His duty is to protect and preserve, for the benefit of the persons ultimately entitled to it, the property over which the court has found it necessary to extend its care. He occupies a fiduciary relation to the owner of the property and all who may have claims to it. He is subject in all things to the direction and control of the court whose officer he is; and when in doubt about his duty in any particular, it is his privilege to apply to the court for specific instructions." "The office is in many respects analogous to that of sheriff. He is not a party nor litigant to any suit in which he is appointed, nor can he be made a party on motion, nor obtain a decree nor get a judgment for service or disbursements in such suit." A court of equity takes possession of property through a receiver who is appointed by and subject to the control of the court. Where the appointment of one is as a receiver, the fact that he is termed a trustee is immaterial. The person appointed is a receiver, and will be subject to the laws covering receivers.

A court, by appointing a receiver, takes the subject-matter of the litigation out of the control of the parties and into its own hands, and holds it pending the proceeding and the final disposal of all questions, legal or equitable, involved in the action. Since the receiver's possession is that of the court appointing him, any attempt to disturb it without leave of the court is a contempt of court, and may be punished accordingly. The purpose of a receivership being to preserve the property contested for, pendente lite, it has no effect, of itself, upon the title to such property, either to change it or to create a lien upon it.

The appointment of a receiver rests in the discretion of the court. One of the rules by which courts of equity are governed in the appointment of receivers in Maryland is: "That fraud or imminent danger, if the intermediate possession should not be taken by the court, must be clearly proved, and that, unless the necessity be of the most stringent character, the court will not appoint until the defendant is first heard in response to the application."

A receiver will not be appointed where there is no reason to believe that benefit will result from the appointment or that refusal will cause an injury, or if apparent that appointment will cause more confusion or difficulty in the management of the property than if its possession is not disturbed, or if from other consideration the appointment would seem to be inexpedient or harmful. The appointment will be refused if the applicant has a full and adequate remedy at law, although the pursuit of that remedy is difficult or the remedy may in effect be lost by the laches of the party entitled to it. . . . The applicant must come into court with clean hands. The purpose of the receivership being to preserve the property from danger of loss or injury until the rights of parties interested in it are determined, it must appear that such danger or injury is imminent and not remote or past, and that his own claim of right is reasonably free from doubt.

Very frequently, the concern for which a receiver is appointed is not insolvent, but there may be dissension in the management,

or business conditions may be such that obligations cannot immediately be met, though assets are ample. If the partners or officers are wasting or misusing the assets, or if some creditors sue and get judgments, the business may become insolvent. In any such cases there may be good reason for the court to act.

A receiver, being an officer of the court whose duty it is to receive and preserve the property in controversy, pendente lite, on behalf of the court and for the benefit of all parties in interest, and being so clearly a representative of the court as to have been frequently referred to as the "hand of the court," it is of the first importance that the person appointed shall fully and faithfully represent the court, having no such personal interest in the controversy or in the property in his charge as would prevent the exercise of his duties and powers without favor to any of the parties.

The selection of a particular person to act as receiver is, consequently, a matter peculiarly within the discretion of the court, having in view the special circumstances of each case, and the fitness of the candidate for the position by reason of his occupation, experience and character.

In case the parties have formally agreed upon a person to manage the matters to be placed in charge of a receiver, such person will be favorably considered by the court for the appointment.

In the recent Northern Pacific Railroad litigation Judge Jenkins said, concerning the appointment of receivers: "A receiver is the officer of the court, the right hand of the court—in the management of the trust. It has too often been considered that the receiver is a mere agent of the contesting parties to the suit. He should be in a large sense, if not wholly, indifferent and impartial as between the conflicting interests involved. He should have no object to serve except to conserve the property in the interest of whosoever shall be adjudged to be entitled to it. He should not be concerned in any war of factions, nor interested in favor of or opposed to any scheme of reorganization. He should be strictly impartial and solely devoted to the preservation of the property. * * * The receivers to be appointed by this court must come within the definition of the law as I construe it, and within the principles stated. They must be men entirely indifferent between contending factions. They must be men that have had no connection with this conflict. They must be men who are strictly impartial and will perform their duty in single devotion to the trust and with no ulterior purpose to serve."

The receiver being an officer of the court is not to be regarded, in any sense, as the agent or representative of either party to the action. It is his duty to exercise his function in the interest of neither party, but for the common benefit of all the parties concerned. The fund or property is to be regarded as in custodia legis, and the receiver as the creature or officer of the court, having only such powers as are expressly conferred upon him by the order of appointment, or such as are conferred upon him by the established rules and usages of a court of chancery.

High, in his work on *Receivers,* says:

But it is improper to appoint as receiver over a particular kind of property a person who is entirely unfamiliar therewith, even though he gives an undertaking to attend to the directions of another person familiar

with the management of the property, since it is always preferable that the receiver appointed should act upon his own responsibility.

The principle underlying the question of the powers of a receiver is that he is an officer of the court, "its hand" as it is metaphorically put. The court is the principal and employer; the receiver is the agent and servant. His possession is the possession of the court. It follows logically that the powers of a receiver emanate from the court and are expressed in its orders, to which the receiver must look for guidance and render strict account and obedience. But the orders of the court do not contain every right and all authority of the receiver; there are implied and incidental powers which he may exercise, and which often create a correlative duty—powers which, when exercised without express authority of the court, it will not deny, and the result of which it will accept and approve.

The bankruptcy act of 1898 as amended in 1903 authorizes our courts to appoint receivers or marshals upon application of parties in interest, in case the courts shall find it absolutely necessary, for the preservation of estates, after the filing of the petition and until it is dismissed or the trustee is qualified. The courts may authorize the business of bankrupts to be conducted for limited periods by receivers, marshals or trustees, if necessary to the best interest of estates.

This is the theory of receivership as we find it in law books. In actual practice, however, while the nature of the remedy, the circumstances in which the relief will be granted and the powers and responsibilities of receivers conform to what has just been quoted from text-books and decisions, the selection of the person to act as receiver is not always made in accordance with the ideal principles which are supposed to govern such an appointment. If the parties in the action are in agreement in nominating some one, the court is very likely to regard their wishes. Where there is disagreement, the court may name an entirely different person. I believe the parties in interest are likely to be at fault if a suitable person, meeting the ideal requirements, is not put in charge.

It will probably be interesting to know what Alderson has to say about the "friendly receiver":

For the first time in any book upon the subject of receivers we write the words "friendly receivers," a term which has recently been employed by the profession to designate a class of receivers as to which there has been much controversy and well-founded objection. A recent article upon the *Evils of Private Corporations* contains a comment upon friendly receivers which may be properly quoted: "These are some of the evils of private corporations, while living as actual, invisible, intangible and soulless persons. * * * When the corporation has been mismanaged, when it has exhausted its capital stock in its greed to crush out individual enterprise and establish monopoly, it comes serpent-like into court and asks the aid of the court through the instrumentality of a friendly receiver to stay the hands of the creditor until it can work out successfully its fraud in defeating the just demands of its creditors. It is a shame and a

disgrace to our judicial system, which countenances the office of a friendly receiver. The rule in such cases is to take some one of the very men who have been instrumental in wrecking the corporation and install him in the office of receiver. * * * The courts too often allow, through this instrumentality, the officers of a corporation to wind up the affairs unmolested when insolvent, when they have shown their inability to manage successfully its affairs when living."

The term "friendly receiver" is most frequently used to designate a receiver of a corporation who was one of its officers; but the words include every receiver who, by reason of being an officer or stockholder of a corporation, or because of some connection with and interest in the property and affairs of the defendant, whether a corporation or an individual, is to be presumed to be without that impartiality and indifference necessary to a strictly equitable and just administration of the powers and duties of the office, and subservient to the interests, wishes and direction of the defendant. And this though his integrity be perfect and conceded.

Friendly receivers are not within the requirements thus declared by an eminent jurist in his opinion concerning the appointment of new receivers of the Northern Pacific Railway Company: "They must be men that have had no connection with this conflict. They must be men who are strictly impartial, and will perform their duty in single devotion to the trust, and with no ulterior purposes to serve."

As to the "friendly receiver," one who is merely friendly to stockholders or partners is not so likely to regard properly the interests of creditors. From a most common-sense view the interests of all are identical if an honest administration is wanted. The broad-minded, honest man of affairs is neither friendly nor unfriendly. He simply administers his trust with absolute impartiality and so as to realize the utmost from the assets, or if possible, restore the business to life and credit.

One who undertakes to do many different kinds of things will probably do them all very poorly, unless he has unusual ability and experience. He may do a few things fairly well, but nowadays he had better undertake only one thing and try to do it better than any one else if he wishes real success.

I can remember when the carpenter would set a light of glass or fix the chimney or do a small job of plastering—when the doctor not only wrote prescriptions but filled them on the spot—when the lawyer was real estate and insurance agent, money lender, notary public, conveyancer and what not. In the smaller communities trades and professions are combined in the same person, but in the more important centers a higher and more specialized grade of work is demanded, and we have a different man for every kind of work.

There is no doubt that the carpenter was a better all-around man and citizen for his versatility and knowledge of other trades, and perhaps the day of small shops was a day of higher average

intelligence among working and trades people. I often wish that more men were proprietors of shops, stores and factories, instead of being only parts of great machines where there is little call for thinking or acting outside of narrow grooves. However, there is probably more to be said in favor of the large business by which the development of the best things ever dreamed of by mankind has been made possible, as in our time. Progress is the result of concentration of effort by individuals and the combining of the efforts of many. Every old profession has been raised in importance and efficiency, and many new ones have been developed as the needs have grown, and it has been done by specialists.

Business men nowadays are beginning to look outside their own narrow ruts for advice, and we occasionally find one who seems to think that the experiences of others would be valuable to him, and who has the wisdom and open-mindedness to enable him to study the experiences of others and make comparisons intelligently. In some lines of activity the modern ideas of scientific management and efficiency are being applied, and of course with good results. In many places it is now required that a man occupying a position of responsibility and receiving a substantial compensation must earn his salary—i.e., work at his job—and do good work. This is a growing tendency in every well-conducted business, but there are places in which this is not expected. How many of the very large number of holders of public office, either appointive or elective, are chosen for their peculiar fitness for the office? How many of them take personal charge and direction of their responsibilities and "work at their jobs" as you and I are expected to do? We can probably call to mind cabinet officers, governors, senators, representatives, mayors, postmasters, special commissioners and numerous other office-holders who are notorious misfits as to competency, or who, if competent, give little attention to the real duties of their offices. Many of the appointments made by presidents, governors, mayors and the courts are made with reference to fitness for the position, and in some cases the public expects and demands that persons appointed shall be well qualified for their work. But how often the case is different and it is not even expected that appointments will be made for other reasons than to repay some political service or at the request of some influential politician, or to furnish a living to some friend. To the extent that the heads of bureaus and

offices in this and every other city and throughout the country are not selected for their special fitness and do not give their whole attention to the administration of their offices, they are not efficient, and the government of which they are a part is inefficient.

Would it not be well for people to begin to expect and demand generally that whoever is selected for any position or office, private or public, should be fit for the proper administration of that office, just as you would require that your shoemaker or dentist understand his business, or that the man in charge of building the Panama canal be an engineer and the best administrator to be found? And furthermore, and quite as important, it should be required that the man work at his job.

If it be proper and reasonable that especially qualified persons be selected for responsibilities in going business concerns, should not greater care be exercised in selecting men to take charge of those which are in trouble? My feeling is that every reasonable chance should be given a weak concern to get on its feet, if it is legitimate, honorable and deserving. The community suffers every time a business goes to the wall, and it is benefited whenever a tottering business is saved, if it is a worthy one.

A business in difficulty is like a person who is ill. Each needs a physician—a real one, who can diagnose and treat the case. There was a time when little was known of germs and microbes, and there was no such thing as vaccination or inoculation, or even an approach to intelligent understanding and treatment of human ailments. Even now, with all our experience, the real reasons for failures in business are so little known and acknowledged as to astonish one familiar with such matters. I have no hesitation in saying that many more concerns in trouble would be restored to good credit and prosperity if experienced, capable, courageous, sympathetic, honest, industrious persons, working at their jobs, were in charge of their affairs as trustees or receivers. However, it is vastly more important to prevent the collapse of a business and I am equally confident that few concerns would ever come to grief if the proprietors and creditors would take the trouble either to act on the knowledge they have or to secure competent advice and help when the first symptoms appear. Here is a large and inviting field for preventive work, but it requires experienced, wise, sympathetic practitioners.

Next to his own life and that of his family, is the life of a

man's business. But usually, when things do not go right, he acts as his own business doctor and legal advisor. He figures out in his own way, as he has always done, his inventory valuations and his depreciations, without the advice of an expert accountant. He bridges over difficulties as best he can, rarely seeking the best obtainable advice when it will do him the most good. Instead of having a skilful diagnosis and a course of treatment prescribed, he uses home remedies. Then, when he has exhausted all his honest business ingenuity, he perhaps begins a course of slight deception of himself and his creditors, justifying each successive step by the necessity, until he has become an adept in manipulating figures to maintain his credit. By this time he knows, and has practised, all the deceitful and questionable schemes for pulling through, from simply drawing cheques when there were no funds, to selling stock to his employees, kiting cheques, pledging alleged accounts receivable for loans, and the numerous other devices which his necessity may invent. Finally, when he can no longer hold his head above water, he is forced into bankruptcy or receivership. Perhaps some one is put in authority who has no idea how or where to begin or what to do, so he tells everybody to go on and do just as before. He declares it a hopeless case and that the only thing to be done is to have the business "waked and buried decently" as was done with the fine old Irish gentleman who died.

The guilty parties to this probably unnecessary bad ending are the debtor himself, his creditors and the appointing power responsible for placing in charge of the remains any but the most capable man to be found who will take the job.

I think I would indict the creditors first for not exercising greater care in extending credit and not keeping in closer touch with a business where they have so much at stake. Their greatest mistake is in not giving heed to the many warnings which always precede the collapse—for a business does not fail suddenly. In the competition and struggle for business, people take chances which are unjustified. They do not go deeply enough into the affairs of those seeking credit, either because they believe it is unnecessary or because they are bluffed out of it.

Too often you and I do not have a chance to do our best and most useful work. Instead of being called upon to make a diagnosis and prescribe a course of treatment, we get a hurry

call to the autopsy. Of course we can cut up the corpse and find out just what it died of, and reflect on what might have been done to prevent the untimely demise. But it does not seem to make much difference, for after the obsequies are past, debtor and creditors go on doing business in about the same old way.

The debtor rarely profits by the lessons learned through his misfortune. He always thinks he could have pulled through if left alone. In many cases he feels or expresses no gratitude for the leniency extended to him by creditors. I know of more than one case where a business has been put on its feet when completely down and out, and where the owners still think it was a great injustice to have been put into bankruptcy or receivership, and where they have never expressed any appreciation to those who worked day and night faithfully to save the old hulk and finally restored their business to them, well organized and prosperous.

We shall get down to the brass tacks of the work of the receiver more understandingly by noting the gradual downfall of an imaginary business.

Let us take a composite case in which I shall try to crowd several real cases and bring out as much as possible of the various conditions and problems confronting the receiver.

Historically, this imaginary business was founded years ago by an industrious artisan with old school ideas of honesty and business practice. He bought for cash, sold for cash, and cautiously and slowly built up a large and profitable establishment which he left to his sons, whom he had tried with only moderate success to train up in his ideas and methods.

The boys liked to spend money and make a show. They followed the business methods of their father so far as they had method, and were not particularly wise in noting changing conditions and improvements. Their father had never been willing to give his bank a detailed statement of his affairs, and as the giving of such statements by borrowers had become more general, and banks were insisting upon them, the boys were likely to be denied continued accommodation unless such statements were furnished. They had not managed so well as their father and the business was not in so prosperous a condition as in his time. In order to make a good showing they advanced the valuations of many of the assets. Their real estate, although in a waning

section, was placed above fair market price. Instead of depreciating their buildings, machinery and equipment, they had maintained original cost, and had even added repairs and replacements to inventories, instead of charging to expense. Instead of charging off promptly all doubtful accounts or bills receivable, they had carried all such as collectible. They needed all the assets possible to make a good showing.

The statement was finally made up, signed and delivered to the bank with a pride and assurance which carried conviction to the mind of the president and effectually squelched any but the most superficial reference to the figures. Instead of sitting down and talking over each item and following this up with a visit by some competent person and an extensive inquiry in the trade, and the use of special agencies for investigation, besides making a particular inquiry into the habits and business methods of the boys, the bank continued the account and the line of credit without further question. It is only fair to say that another bank where they deposited was more cautious and gradually withdrew credit until the account was closed. It would not be an unusual case to suppose that none of the two or several banks where accounts were carried was willing to lose a good balance, and, while some doubts existed all around as to the true conditions, no one would press inquiry for fear of offending, and all went along in the same boat, not even exchanging information or opinions among themselves.

The real facts were that the accounting was done by an old and trusted bookkeeper who learned to keep books in the father's employ. He had had no opportunity, nor did he nor anybody else see the necessity of going outside for accounting advice or help. Did they not know their business better than anybody else? I knew a concern having $400,000.00 annual sales, where a single entry system of books was kept, and very lax at that, by a girl with no training. The cash had not been proved for a year, and a trial balance was impossible. Worse than that, the proprietors knew no more than the girl about accounting, and they had no conception of the necessity of it.

We will suppose that our imaginary business is a corporation, though most of what we say will apply as well to a partnership. The legal requirements of a corporation as to annual meetings, state reports, etc., and the proper authorization of salaries, con-

tracts, etc., were loosely complied with. The several brothers or partners had vaguely defined duties, but there was no real co-operation in the general administration. In fact, a bitter jealousy had gradually grown up among them and they were hardly on speaking terms. This feeling permeated the entire establishment, each one in the management having favorites among the employees and customers. There was no intelligent consideration and decision in regard to what kinds of goods to manufacture, or what departments to establish or maintain, or in other important matters. The result was too many employees, some of whom had outlived their usefulness, too large a stock and much of it stale, and too many different things manufactured. There was no cost system or other new-fangled notion—far from it.

Outside appearances were kept up, but inside there was decay, dissension, distrust and growing deceit and dishonesty. The brothers or partners kept up their expensive manner of life, and this drain on the business began to show in many ways. Proprietors' accounts were overdrawn and these accounts were included in assets as good. Old relatives and friends were induced to make advances, and these were not entered as liabilities. It is very probable that some of the proprietors had made outside investments and drawn the funds from the business. How frequently such ventures are total failures. Perhaps the various relatives, heirs to the father's business, had been paid regular dividends in blissful ignorance of the insolvency of the business and that no dividends were earned. Undoubtedly the scheme of selling stock to employees had been worked to the utmost. Then there came times when funds were short on pay days and the higher salaried employees were asked to wait for part of their pay. These enforced loans mounted up gradually to a great sum. There had long been a practice of issuing cheques and then making the bank account good before they came in. This of course led to issuing cheques when there was no assurance that there would be funds to cover, and finally most of the cheques came back "no funds."

When the bank or banks called in loans and restricted the lines, some sort of collateral was scraped up. It may have included some good stuff, but probably by this time there was not much of value to be pledged. The accounts receivable were offered and that worked along very well until it was discovered

that paid accounts or those which were disputed or absolutely worthless were being included—such as accounts for advances to the proprietors who were personally insolvent.

The first statement, though perhaps not false, strictly speaking, and perhaps made in good faith, but in ignorance and unwarranted optimism, was followed by others which were absolutely false, and they were made so from dire necessity.

When the first real, hard jolts came, because the facts could no longer be concealed, the creditors (banks usually taking the lead) began to learn the real conditions, but they were persuaded to let the bad things work themselves out—of course through the same management by which they worked themselves in.

There was a time when the principal creditor or creditors might have discovered the germs of disease and brought about a course of treatment which would have saved the business, though such a patient is extremely hard to handle. You cannot make him believe, or at least admit, that he is sick.

Thus comes about the financial and frequently the moral downfall of many a man who should have kept and been kept honest.

Bankruptcy or receivership is inevitable in our composite case. The final action is generally preceded by conferences of creditors with the debtor, when a definite course is decided upon. The court will usually ask if there is any person in view for receiver, and appoint the one who may be agreed to by all.

In bankruptcy a receiver is appointed only in certain circumstances already explained, and the act provides for the election of a trustee by the creditors. The decree appointing the receiver fixes the amount of his bond and limits his authority and the extent of his power except as to such duties as are incidental. The receiver files his bond, and when it is approved he is presumed to be in possession of the assets in the name of the court whose officer he is. If it is a going business the decree usually provides for its temporary continuance, until the receiver can ascertain what is best to do, and receive further instructions. As a rule the wishes of creditors have great weight in determining the course. Where there is probability of reorganization or sale as a going concern, or that by continuing operation a larger dividend can be paid, the court may authorize the receiver to continue the business for a limited period, or until further orders, as is frequently done in the case of railroad receiverships.

The receiver goes into possession of the assets and becomes the sole authority within the order of the court. If he is receiver only in name, he may take very little personal part, but delegate everything to others. Perhaps he retains the entire organization and methods without change, and seldom goes to the concern for the management of which he is under bond and may be awarded fees out of the assets.

If he is an active receiver, he at once takes personal possession of assets and assumes direction of affairs as rapidly as he can become sufficiently familiar with them. If not familiar with that particular subject, he probably makes such study of it as the circumstances seem to justify, so as to have first-hand knowledge.

Before making any distribution, all claims must be proved, and this involves correspondence and care in examination of accounts. There will be differences to adjust, and in some cases claims must be determined before a referee or auditor. Then come preparing and filing receiver's accounts and the audit, either before referee or special auditor, and the payment of dividends.

I have now to speak of the relation which the accountant bears to all I have described. I need not remind you how badly you are needed before you are sent for, as a rule, and that consequently your task is much more difficult than if you were a regular visitor. I am safe in saying that where there is a proper, up-to-date accounting system, all the other business methods are likely to be equally up-to-date. It is almost a matter of course that nearly all the bad practices I have spoken of would come to light or never exist where there was good accounting.

Some of you have done professional work in cases with which I am familiar, and it must be very apparent to you that if good accounting systems had been in use in those places, and the results had been known to proprietors and creditors, the conditions could never have become so bad and the consequent losses so great. Good accounting would have given complete and regular information and timely warnings.

When the evil day cannot be put off any longer, a few creditors have a meeting with the debtor. An emergency call is sent out for the accountant. He is asked to dig into the mess and submit a statement the next day or sooner. He promptly says it is impossible and finally agrees to submit an approximate

statement. With this before them, the creditors finally decide on a course of action.

The best friend to the receiver is the public accountant. He knows he will get from him the real facts, if they are obtainable. If the accountant has not already been there and finished his work, he is the first man the receiver wants, for not much planning can be done until the facts are known.

Both accountant and receiver have distinctive services to perform. Aside from the preparation of a balance sheet and profit and loss account and verifying cash account, the accountant finds clues which lead to very interesting discoveries. Only the trained man can do such work. A receiver may know and do nothing about his business and still draw his fees (though such a one is always overpaid, no matter what he gets), but the accountant must be fitted for his work and work at his job.

Here are some of the specific things done by accountants in receiverships within my knowledge: Unearth and completely prove misappropriation of $200,000.00 which would have otherwise remained undiscovered. Demonstrate the falsity of a series of statements issued for years, in which liabilities of several hundred thousands did not appear. Write up a business practically devoid of accounting and put into operation a complete system. Trace out an investment of $30,000.00 which did not appear on the books, and which the proprietors were trying to hide, and which they were trying to sell for $5,000.00 as their personal property. I sold this asset for $25,000.00 cash for the benefit of the creditors.

I do not need to emphasize the necessity of the accountant's work being accurate. I am reminded, however, of the utter uselessness of a certain piece of work performed by an accountant who also essayed to be appraiser and business liquidator. This was in reality a collecting agency under the guise of a public accountant. The main drive was to secure control of the whole situation, acting for both debtor and creditors. The accounting job was completed in short order and a very full report with definite conclusions and recommendations was submitted. But it was raw and green, and did not go down. No concern with such conflicting interest in the client could be expected to do impartial, high grade dependable work.

It must be assumed that you and I, while following what

with you is an established profession, and with me a work which should be made a profession, are interested in seeing better business methods. We don't want to see failure, and would much prefer to do preventive work and to be called in to help preserve instead of wind up a business.

I have never failed to advise men not only to keep accurate records and accounts, but to call in the expert periodically to tell them their condition and advise regarding their methods. Each partner, every director and stockholder has the right, and it is his duty to know at stated, or perhaps irregular, periods just how his business stands—the conservative inventories, the fair depreciations, the fair value of accounts receivable and bills receivable and other assets, the full liabilities direct and contingent, and the real profits or losses. This information should be furnished, or at least verified, by an outside public accountant, and furthermore it should be cheerfully given to banks and other creditors.

If you can get the business men of your community to endorse this idea and put it into practice, there will be fewer receiverships, in which case the erstwhile receiver will no more be undertaker, but professional business diagnostician and physician.