

thing of that kind; he merely takes the income and pays necessary outgoings, while a "manager" carries on the trade or business: *Re Manchester and Milford R. Co.*, 14 Ch.D. 645, at 652. A "receiver and manager" stands in the same position as a "receiver," but the former has a larger scope than the latter and is empowered to carry on the business of the company, whereas a "receiver" is merely authorized to take possession and protect the property which comes into his hands: *Manchester v. Milford R. Co.*, 14 Ch.D. 645; Parker & Clark on Company Law (1909), p. 282.

A "receiver" or a "receiver and manager" as an officer of the Court is appointed by the Court to take possession of certain property and to protect it for the benefit of the parties interested therein: Parker & Clark on Company Law (1909), p. 282. The appointment of a "receiver" is not a mere matter of discretion, but the party asking for such an appointment is, in a proper case, entitled *ex debito justitiae*: Parker & Clark on Company Law (1909), p. 283. Where a liquidator already in possession of property is, by the Court appointed receiver also, such appointment is a matter of discretion and the Court of Appeal will not, except under special circumstances, interfere with this discretion: *Giles v. Nuthall*, W. N. (1885), 51; Parker & Clark on Company Law (1909), p. 283. A "receiver," or a "receiver and manager," appointed by the Court is not an agent, but a *principal*; when appointed out of Court he is an *agent* and not a principal: Riviere on Receivers and Managers (1912), p. 155, and cases there cited. A memorandum sent to tenants by a landlord directing them to pay their rents to a third party will not, of itself, constitute such third party a "receiver" of such rents or confer upon him any powers of a "receiver" or a power to distrain: *Ward v. Shaw* (1833), 2 Moore & Sc. 756; Riviere on Receivers and Managers (1912), p. 191. The first statutory powers of appointing a receiver conferred specially on mortgagees were created by Lord Cranworth's Act, Imp. Statute 23 & 24 Vict. ch. 145. A discussion of the provisions relating to receivers in that Act and in the Conveyancing Act 1881 will be found at pp. 193 to 200 of Riviere on Receivers and Managers (1912).

Where a receiver is appointed out of Court under any power in that behalf contained in any document, the powers of such receiver will depend on the document creating the power of appointment read with the appointment itself: Riviere on Receivers and Managers (1912), p. 190.

Since the passage of the Imperial Judicature Act a receiver may be appointed, under sec. 25, sub-sec. 8 of the Act (ch. 66 of statutes 1873) in cases in which it shall appear to be "just and convenient" that such appointment be made, the power thus conferred enlarging that formerly possessed by a Court of Equity: *Anglo-Italian Bank v. Davies*, 9 Ch.D. 275.

This provision of the Judicature Act has been adopted in nearly all the provinces of Canada: See the Judicature Ordinance of the North West Territories, sec. 10, sub-sec. 8 (N.W.T. 1905, ch. 21); R.S.N.S. 1900, ch. 155, sec. 19, sub-sec. 9; Ont. Judicature Act of 1881, sec. 17, sub-sec. 8.