

tions, and the effort to establish by proof, that he had covered up deficiencies in the cash means of the firm by forced entries in the books, has signally failed, it appearing upon examination, that so far from deficiencies in the cash being concealed by such means, surpluses to a considerable amount have been disclosed, which, but for the entries in question, might never have seen the light. The effect of these entries as explained by the witnesses, and indeed as is apparent upon their face, was to increase the funds of the firm, and of course to benefit the partnership. The defendant if dishonest, might have put the money in his pocket, or applied it to his individual use, but knowing it to have been derived from the sales of the property of the firm, or from collections, or however derived, to belong to the partnership, he made such entries in the books as the occasion required.

It is insisted that the necessity for these entries betrays a want of skill and care in the management of the business which should predispose the court to appoint an agent to take charge of it. Entries of the character referred to, have certainly an appearance of negligence, and may indicate a want of skill, but the manner in which the business was conducted, is supposed to relieve the defendant from a part, at least, of the imputation which might, under different circumstances, attach to him. It appears that various agents were employed in selling lumber, and the entries in the books were made from the reports of these agents, and it is quite as likely that these agents neglected to report sales, or the receipt of cash, as that being reported the book-keeper omitted to make the proper entry. At all events, the fact of the subsequent entries having the effect to benefit the firm, and in a corresponding degree prejudicing the defendant as an individual, rescues the transaction from the injurious interpretation which might otherwise be put upon it. It is more than probable, that he might have appropriated these excesses of cash to his own use without detection, and that he did not do so, but by proper entries in the books threw them into the general funds of the firm for the benefit of the partners, cannot be allowed to impair the confidence which the deceased partner so