

acceptance of those trusts, in the performance of his agreement in that respect. It is not shown that any firm business suffered for lack of attention on his part by reason of his performance of the duties of executor or administrator. Nor did he accept either of these trusts clandestinely, or without the consent or approval of his copartner. As to the Neudecker executorship, the complainant takes pains to prove that the will of Neudecker was drafted by himself, and that the defendant was named therein as executor at his suggestion, and as the result of some opportunity on his part, and that he subsequently became the defendant's surety on the bond given by him as executor. The complainant's consent to the defendant's acceptance of the trust could not be more clearly shown. It cannot be seen how the acceptance of these trusts, under the circumstances thus appearing, was in any sense a fraud on the partnership, or in contravention of the defendant's duties as partner, so as to call for an application of the rules arising in such cases, as stated above."—*Albany L. J.*

---

MERCANTILE AGENCY PRIVILEGE.—In *Mitchell v. Bradstreet Co.*, Missouri Sup. Ct., May 2, it was held that a false publication by a commercial agency as to the solvency of a business firm is not privileged where the publication sheet is issued to all the subscribers of the agency without regard to their being creditors of the firm. The court said: "Defendant's first contention is that the publication sheet was privileged, in the absence of motives, as to subscribers who were creditors of plaintiffs, and that the court erred in allowing the proof of publication to such subscribers. If the proof showed that no other persons than the creditors of plaintiffs had received the publication sheet in which the libellous matter is shown to have been published, there are authorities which hold that, in the absence of malice in the publication, owing to the confidential relations existing between such creditors and the defendants, the publication was privileged, and that defendant was not liable in damage therefor, although the same was false. In the case of *Trussell v. Scarlett*, 18 Fed. Rep. 214, it was held that, 'when a mercantile agency makes a communication to one of its subscribers who has an interest in knowing it, concerning the financial condition of another person, and when