

find that there was no agreement that defendant should get a salary, and, in the absence of any agreement, and as against plaintiff, he is not entitled to charge it.

Defendant has submitted what he says is a just and true statement of all the partnership business and the accounts connected therewith, and plaintiff seems willing to accept these, instead of a reference to . . . the Master. This cannot be unfair to defendant, for, on looking at the accounts, I find there are at least some small items, apart from defendant's salary, open to question. . . .

[Items of account set out and result shewn of net loss in business of \$1,673.10.]

Plaintiff contends this loss must be borne by the parties in equal shares. That is the rule, in the absence of any agreement to the contrary, but where it has been agreed to share profits in certain proportions, the inference, in the absence of any agreement to the contrary, is that losses are to be shared in the same proportion. The agreement in this case as to profits was that plaintiff was to get the net profits as his interest would appear. . . . Plaintiff's part of the loss is \$1,127.67; defendant's is \$545.43. Deducting the \$1,127.67 from the \$2,000 . . . the balance will be \$872.33, which amount plaintiff is now entitled to recover from defendant.

I allow interest on this money withheld from plaintiff from 1st October, 1900 . . . at 5 per cent. per annum. This will amount to \$201.71, making in all \$1,074.04.

I allow any necessary amendment to meet the case made by the evidence.

Declaration of partnership, of dissolution, and that . . . defendant is indebted to plaintiff in . . . \$1,074.04, including interest.

As to costs, this would be treated as an action for an account, and the old rule was to give no costs in such actions up to the decree directing the account. Plaintiff claimed the whole \$2,000 as a debt; in this he has not succeeded. Defendant sought to appropriate \$1,540 as salary to himself; in this he has not succeeded. So I give no costs.