

respondence on the subject. Our firm does a large business in its paints and drugs. I cannot say to what extent without consulting the books. It may be to the extent of seventy-five but I think not to the extent of £100,000 per annum. I am not aware that the plaintiff could have had, at the time, the Medical Hall. I heard that a partnership was spoken of with Mr. William Lyman, but plaintiff said he would not take it. William Lyman could not succeed. Never heard plaintiff could have had the Medical Hall. Plaintiff is one of the best persons for the business that I know of.

Cross-examined by the Jury:—The £200 a-year and 5 per cent were paid voluntarily, wishing to pay it without suit. The firm paid the £1000 when sued for it. Plaintiff could have had it on application. The £1000 was not a condition of his remaining with the firm.

Cross-examined:—The letter of the 4th April, 1859, was written in Plaintiff's room, in the store, when I was taking my luncheon. I told him I had not the sanction of my partners, and he said if they did not consent it would go for nothing. Plaintiff said he thought I could induce my partners to come into the arrangement. I had not the sanction of my partners; the first time I told my partners that I had written such a letter was after I wrote the letter of the 1st April, 1859. I recollect about a year after this that Plaintiff said he would like his per centage carried to his account. I then asked for the letter from Plaintiff, and was surprised to see it signed Lymans, Savage & Co. Till then I supposed I had written my own name. The firm was sued for the £1000; this copy of the declaration and writ now produced was served upon us, no mention of the partnership in it. The Plaintiff did not demand this money before the suit; I got the lawyer's letter first. I went up the same afternoon with a cheque, and met Mr. Cross, who seemed embarrassed, and referred me to Mr. Bancroft. Mr. Bancroft was absent, and I left the cheque with Mr. Dorman. The bailiff afterwards gave me the summons on my return to the office, on the same day as the letter. The account was made up as in the paper now put in—marked LM, allowing 8 per cent on £1000 the first year, and £1080 the second. The first entrance made in the books of the firm with reference to the 5 per cent was not made till this year. My partners knew nothing of it till about the time that Plaintiff demanded to be taken into partnership and was refused; the firm was sued afterwards for the 5 per cent. After the suit I and Mr. Clare made up the amount to the best of our ability; as many accounts were not collected and some were in suit, we decided that if the amount so made up were not accepted Plaintiff might go with the suit; it was accepted, and the receipt now filed, marked N, given, signed by Plaintiff. The \$1,200 so paid to Plaintiff, was charged to me individually, on the ground that I had promised it to Plaintiff—without my partners' consent, and that they were not responsible. Plaintiff called on the book-keeper about the time he was leaving to make up his account; this account was made up. I know that Plaintiff's account was credited by salary £200 per annum. When his salary was paid I was in England. It was I told Mr. Clare to credit £200 to Plaintiff about the time of his leaving.

By the Jury:—I never notified Plaintiff of his conduct in 1857, or previous to 1859. There were two actions, one for £1000 and another for the 5 per cent. I never tendered him any amount before the suit.

Re-examined:—The 5 per cent was paid at date of receipt, same time in 1860. The amount was not made up and offered before, because it could not be made up. Cannot say that the firm received the letter produced, of date 9th August, 1859, asking for an account of profits. Cannot say they did. I do not recollect ever seeing such a letter before now.

WILLIAM WORKMAN, Esq., merchant:—Knows the parties in this cause. Has seen the letter of the 4th April, 1857; about that date knew Plaintiff well. Had a favourable impression of his ability. Witness had that letter in his custody for a year, having been given to him by Plaintiff.

Question:—Had you any knowledge in April, 1857, of Plaintiff's prospects of business?

Answer:—I had. The late Wm. Lyman wished to have him in his business, and told me to hold out to Plaintiff the possibility of his being a partner, without naming a time. There was another party desirous of having Plaintiff. I told him to keep to the house he was in, and to get any offer of partnership put in writing. I was aware of plaintiff's offers. The party named was Mr. John Carter. I do not know if he was in treaty with Plaintiff. I always advised Plaintiff to keep to the concern he was in. The late Wm. Lyman requested witness to speak to Plaintiff. A position in Mr. Lyman's business witness would consider an advantageous position. W. Lyman has since died. Witness considers Plaintiff a competent person to have taken up the late William Lyman's business; which after his death no person carried on. Witness knows that £1000 was raised by Plaintiff for the firm of Lymans, Savage & Co., partly from funds in the hands of witness' late firm, say £700, and partly his own. The money in the hands of our late firm was part his own and part his father's. Money was scarce in 1857. The Defendants did as large a drug business as any in the province, and perhaps in America. It has been established over 30 years. Witness would value the good will of the whole business from eight to ten thousand pounds. The late Wm. Lyman retired with a large fortune from the firm. Wm. Lyman authorized witness to say to Plaintiff, as he was an old man he wished to have him to get the customers of the old firm for his business.

Cross-examined:—Our firm allowed 6 per cent interest on the moneys in their hands belonging to Plaintiff and his father.

JOHN CARTER, Chemist:—Knows the parties. Did not know personally Plaintiff in 1857. Witness wished in 1857 to have a person to superintend the Medical Hall, and Plaintiff was recommended. Witness was willing to take the Plaintiff as a partner. Saw Mr. Workman and also Mr. Malcolm, and was informed by them that it was too late, as Plaintiff had made arrangements with Defendants. Witness would have given Plaintiff a partnership and a handsome salary. Thinks the good will of the Defendants' business, which was established over 30 years, equal to the profits net of a year's business. Defendant's good will estimated at profits of a year. It is the

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