

dismissal will be without costs: if there is an appeal, the dismissal will be with costs. Taylor McVeity, for the plaintiff. H. Fisher, for the defendants.

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HARDY V. SHAW—SUTHERLAND, J.—JAN. 8.

*Account—Business Profits—Securities—Lien—Sale—Reference—Costs.*]—Action by George H. Hardy against Robert W. Shaw and the Vulcan Company Limited for an account of business profits and for other relief. The defendants asked for an account of moneys received by the plaintiff and for the realisation thereof upon securities transferred by the plaintiff. The action was tried without a jury at London. SUTHERLAND, J., in a written judgment, said, after stating the facts, that the only reasonable and possible conclusion to come to, on the evidence as a whole, was that the agreement made with the plaintiff in 1912 was put an end to in October, 1913; that thereafter the plaintiff became an employee of the defendant company, and so continued until he resigned or was dismissed in January, 1919. If the plaintiff desired an accounting, the only one that he was entitled to was one covering the period of the defendant company's business from September, 1912, to October, 1913; and this would apparently be useless, as for that period the business shewed a loss. While the defendant company's business was, so far as the defendant Shaw and the other shareholders were concerned, somewhat negligently looked after from October, 1913, till January, 1919, and the plaintiff given too free a hand in the management and conduct thereof, resulting in his apparently withdrawing moneys to which he was not entitled, the amount thereof could not be said to have been definitely ascertained as yet. On the evidence as it stood, the plaintiff would appear to have realised that he was indebted, or he would not have offered and furnished security. The plaintiff should, if he so desired, have, at his own risk as to costs, a reference as to the profits during the period from September, 1912, to October, 1913. Unless the parties could agree upon an amount, the defendant company might have a reference to the Local Master to ascertain what amounts, if any, the plaintiff withdrew from the company's business in excess of the salary which he was authorised to receive during the period from October, 1913, to January, 1919. If an amount should be agreed upon, the defendants would have a lien upon the securities until that amount should be paid; and, in default of payment within a reasonable time, a right to realise the amount by sale. Further directions and costs should be reserved. J. M. McEvoy, for the plaintiff. T. G. Meredith, K.C., for the defendant Shaw. R. G. Fisher, for the defendant company.