

transferred to the firm at 8 per cent. Cannot say how many cheques were made out to repay it to plaintiff. It was first offered at 7 per cent interest. Plaintiff was not furnished with an account of his 5 per cent profit account. The firm do not acknowledge it to this day. Do not remember when plaintiff asked for an account or statement. Does not remember of Bancroft's Express men coming with a note to the firm. Witness became aware that plaintiff was to have the 5 per cent in May, 1859. This was known when plaintiff left. The question then came up. It was paid in August, 1860. The profits were made up in April. My 7 1/2 per cent had not been settled; witness drew an account of it; account is not yet adjusted. The amount due plaintiff for his 5 per cent. profits was not offered him till he sued for it.

To the Jury:—In 1858 the books were balanced up to 1st January, in May or June.

To Mr. Cross:—Witness saw all the letters that came into the firm. He did not put them away. It might have been a couple of days before they were filed away. Witness thinks he saw the letter marked S. Very trifling discrepancies, say \$50.00, or \$60.00, sometimes occur in the Balance every year. My family visits sometimes the families of the other partners. Never saw Plaintiff visiting my partners' families. Was not at marriage of Miss Fanny Lyman. It occurred in 1859.

Evidence for Defendants' case closed.

EVIDENCE ADDUCED BY PLAINTIFF IN REBUTTAL.

BENJAMIN LYMAN,—Defendant:—The note of 22nd July, 1854, now produced, is in my writing and marked Z. Another is in my daughter's handwriting. It is marked D.D. Cannot say what date it was written; must have been some time ago. Swears it was previous to 1859; cannot swear as to 1858. Does not know handwriting of paper marked E.E. Believes it proceeded from witness' house. No date to it. Note marked F.F. is invitation to Plaintiff to my daughter's wedding. She was married 21st April, 1859. Note marked G.G. of June 18— is an invitation to Plaintiff to Mr. Lyman's, no date. My daughter wrote the invitation to Plaintiff for the wedding. Knows that writing in pencil, is in Plaintiff's handwriting. The invitation was declined. Plaintiff was invited to witness' house perhaps half-a-dozen times a year. Does not know if so often before 1858. During his apprenticeship he was oftener at my house than after.

Cross-examined:—Was in New York at the time of the invitation to the wedding. Did not tell Mrs. Lyman what witness had heard of plaintiff till he saw the refusal, when she inquired about it. My daughter selected the guests for the evening. Witness left home about the close of navigation and returned home once or twice during the winter.

ADAM DARLING:—Knows plaintiff. Plaintiff in 1857 and 1858 took his meals at the Ottawa Hotel—regularly. Never missed him. In the latter part of 1858, and in 1859 he slept several times at the Ottawa Hotel. He appeared to be well known among the boarders. He came home about the usual hour and got up at the usual hours. Thinks he is a good business man. Plaintiff told witness he slept at the hotel because his eyes suffered from drugs. Wit-

ness boarded at the Ottawa in the latter part of 1858.

JOSEPH LEE, Salesman for Messrs. Molson, knows Francis Turner, witness examined yesterday, he is well known to me, know him since a boy. He is a carter, stands at Dalhousie Square. Is not my associate by any means. From his knowledge of that man witness would not believe him on oath, says so deliberately.

Cross-examined:—Says so from knowledge of his general character. That is his manner of conducting himself. He is a loose character full of petty tricks. When in employ of Jones Lyman, this man came driving a fancy woman and left her in the carriage and said he wanted a bottle of Jockey Club perfume. He took it, gave it her, and never returned to pay. It is my impression he is a bad character. That is all he knows about him.

THOMAS HIGGINSON, Senior:—Well acquainted with Defendants. Has known them a good many years. Plaintiff is my son. Witness relied on Mr. Benjamin Lyman, he knew him as a friend, during the last two or three years, the relationship was mostly of a mercantile character. He was frequently invited to the houses of the members of the firm in 1858 and previously, but rarely availed himself of the invitation. They never whispered anything of witness' son to witness till after the rupture late in April, 1859. Supposed had they known it they would have done by witness as witness would have done by them. Witness and his wife have frequently spent evenings with Plaintiff when they came to town and Plaintiff with them at the Ottawa Hotel. This was done openly—done on Sunday. Frequently assisted Plaintiff to raise money. Witness received most of it himself, part of this money was witness' money. Plaintiff was never allowed to want for anything.

By the Jury:—Within 3 or 4 years came to this city 5 or 6 times a year. Madame came as often as she could. She has been with me in Plaintiff's room even on Sunday.

By Mr. Abbott:—Thinks she was never there alone till late or one o'clock a.m.

JAMES RENAGHAN:—Knows Francis Turner. He drives bawdy women. He drove Mrs. Scott, and he fell out with her. Witness is a carter. He is known as a bawdy house runner. It is notorious Turner fell out with Mrs. Scott. Witness recognizes him in Court.

By the Jury:—Cannot say if witness would believe him on oath or not.

EMILIE DUVAL:—Gave evidence yesterday. Two years ago saw Mr. Higginson in my house.

Question:—Did you ever see Mr. Alfred Savage in your house?

Upon objection taken by Defendant's Counsel, this question was rejected.

Witness:—Knows Mr. Alfred Savage. He came to witness' house. My house is on St. Nicholas Street. Has known him for a few years. Knew him from buying drugs at his store. Opened the door for him, he enquiring for a lady.

Cross-examined:—He is a low sized man. Swears he has been in my house. The person he came to see was called Annie Brown. She is dead. He was very particular, and witness does not know if any one saw him. Believes he saw another person named Sarah. She has

gone to the three weeks
Joseph
16 years;
15 years;
May, saw
named Mr.
the neigh

Question
Lyman, de
a house of
in compan
years?

Objected
tion overru

To the J

day. Never

Never quar

First spok

plaintiff be

or offered

tion as to c

kept secret

JOHN O'
ALEXAND

Question

1857, writt

and when

Objected

dence in re

Objection

The plain

of the evid

Here pla

Copy of

and

and

Thomas H

DEAR S

writer had

we will a

pounds pe

profits of

next two y

you as a

and satisf

vate and c

Yo

DEAR S

and I sup

market. I

you, that

on your o

ing reason

my knowl

wending t

mitted a p

personal i

nature the

stances w

not care

the fullest

it best to

you to m