

To the same effect see the following text books : Addison Contr. (9th ed.) p. 844 ; Smith's Mercantile Law (10th ed.) p. 521 ; Chitty Contr. (12th ed.) p. 640 ; Story Contr., sec. 962 (c).

4. Same Subject Continued: Illustrative Decisions -- Concrete illustrations of the general principle stated in the foregoing section are furnished by the subjoined decisions as to contracts affecting various employees. The effect of the cases is so stated as to show precisely the extent of the power assumed by the courts in drawing inferences from the testimony.

Where the only evidence is that a person was hired to work as the foreman of silk manufacturers, and to have wages at the rate of \$80 a year, there is nothing to repel the ordinary presumption that he was hired for an entire year. (a)

An agreement to serve as a steward from a certain date for a specified salary per annum creates an engagement for a year. (b)

Where the evidence is merely that the plaintiff entered the defendants' employ at a certain salary, the only two possible suppositions as to the nature of the hiring are that it is a hiring by the year, or a general hiring without any particular agreement as to time (c).

In *Davis v. Marshall* (d) Pollock, C.B., said with regard to a man hired to manage a shop and keep accounts : " This position and employment, coupled with the hiring at £30 a year, are sufficient to establish a yearly contract." (For a full statement of this case see sec. 9, *post*).

Evidence that the plaintiff entered the service of the defendant, an army agent, as a clerk upon a yearly salary, which had at one time been paid quarterly, but was paid monthly during the last six years of the service will warrant a jury in finding that the hiring was a yearly one, and terminable only at the end of a current year. (e).

A hiring of an engineer under a resolution of a company, at a specified annual salary is *prima facie* a hiring for a year certain. (f)

(a) *Turner v. Robinson* (1833), 5 B. & Ad. 789; 2 N. & M. 829.

(b) *Forgan v. Forke* (1861), 12 I. R. C. L. 495 [verdict for plaintiff in accordance with this rule held to have been rightly directed].

(c) *Broxham v. Wagstaffe* (1841), 5 Jur. 843, per Parke, B.

(d) (1861), 4 L. T. N. S. 175.

(e) *Beeston v. Collyer* (1827), 4 Bing. 309. To the same effect see *Huttmann v. Boulnois* (1826), 2 C. & P. 510, per Abbott, C.J., negating the contention that this doctrine only applied to domestics and servants in husbandry. In *Foxall v. International, etc., Co.* (1867), 16 L.T.N.S. 637 (*nisi prius* case), it was not questioned by either side that the hiring of a clerk whose salary was fixed at so much "per annum" by a resolution entered on the company's minute book, was a yearly hiring. (See *post* as to termination by notice.) The doctrine that the hiring of a clerk is presumptively yearly was also recognized in *Parker v. Ibbotson* (1858), 4 C.B. N.S. 346.

(f) *Buckingham v. Surrey, etc., Canal Co.* (1882), 46 L. T. N. S. 885. Grove, J., said : " It seems to me, therefore, that the judge was bound to direct the jury that in the absence of any such evidence, the hiring was a hiring for a year. There is nothing to show that the plaintiff accepted the engagement upon any other terms than those expressed in the resolution. The plaintiff established a *prima facie* case of a yearly hiring, and therefore in the absence of any evidence of custom to rebut that *prima facie* case I think the verdict ought to stand."