

THE COURT (MEREDITH, C.J., MACMAHON, J.), agreed with the judgment of the learned King's Counsel on all the questions raised by the appeal.

Appeal dismissed with costs.

FEBRUARY 5TH, 1903.

DIVISIONAL COURT.

YOUNGSON v. STEWART.

*Partnership — Taking Accounts — Charging Partner with Payment — Evidence of Partner in Master's Office — Attempt by him to Contradict his own Statements — Evidence — Books.*

Appeal by defendant Hopkins from an order of STREET, J., allowing in part an appeal from the report of the local Master at Hamilton in a partnership action.

S. F. Washington, K.C., and H. H. Robertson, Hamilton, for appellant.

G. Lynch-Staunton, K.C., and T. Hobson, Hamilton, for respondent, defendant Stewart.

The judgment of the Court (BOYD, C., MEREDITH, J.), was delivered by

MEREDITH, J.—This litigation has resolved itself into a contest between the appellant and respondent only.

And, in regard to the second ground of this appeal, the respondent contended in the Master's office that the appellant should be charged with the sum of \$100, one-half of an amount paid out of the copartnership moneys to one Lewis; the Master disallowed the claim, but upon appeal it was allowed.

It is now admitted that the sum of \$200 was paid to Lewis, and that a moiety of that payment should have been repaid by the appellant.

The claim was denied by the appellant in the Master's office, and thereupon the respondent was examined as a witness for the purpose of proving it, as well as every other matter in dispute between these parties; but, instead of making good the claim, he testified, in effect, that there had been a settlement of accounts between him and the appellant in which the sum in question had been charged against and satisfied by, the latter; his own words are, "a balance of \$100 that Hopkins owed on the Lewis account was deducted from the \$205.24, and this left \$105.24."