

MERRIMACK, AUGUST TERM, 1824.

3 79
67 384

JEDIDIAH DANFORTH, vs. SIMEON DEWEY.

A. purchased of *B.* two ploughs; and, in an adjustment of accounts between them, the value of the ploughs was allowed to *B.*, who afterwards refused to deliver them, and converted them to his own use.—It was held, that *A.* might consider the contract as rescinded, and recover the price of the ploughs, in an action for money had and received.

ASSUMPSIT. One count was upon an account, for two ploughs, of the value of \$24. Another count was for two ploughs, sold and delivered. There was another count for money, had and received.

The cause was tried here at January term, 1824, upon the general issue; when it appeared in evidence, that the parties, on the 4th November, 1822, made a settlement of their mutual accounts, and that on that settlement, two ploughs, then in the defendant's possession, were taken into the account, and the value of them allowed to the defendant; and it was agreed, that the ploughs should be at the disposal of the plaintiff; but the defendant withheld the ploughs, and converted them to his own use.

The defendant objected, that evidence of these facts was insufficient to support any count in the declaration; but a verdict was taken for the plaintiff, subject to the opinion of the court upon the objection.

Webster, for the plaintiff.

Noyes, for the defendant.

By the court.—In this case, the plaintiff purchased of the defendant two ploughs; and, in an adjustment of accounts between the parties, the value of the ploughs was allowed to the defendant; yet he has refused to deliver the ploughs, and has converted them to his own use. It is objected, by the defendant, that this action cannot be maintained upon these facts. But we think otherwise. It seems to us, that when the defendant refused to deliver the ploughs, the plaintiff had a right to consider the contract as rescinded, and to recover back the price he had paid for the ploughs. 5 *John.* 85, *Gillet vs. Maynard*.—12 *John.* 274, *Raymond vs. Barnard*.

Danforth
vs.
Dewey.

And it seems to us, that this plaintiff may recover upon his count, for money had and received, the price of the ploughs. It is not necessary, in order to support that count, that the defendant should have received money. It is enough, that he received money's worth. 2 *N. H. Rep.* 333, *Willie vs. Green.*
Judgment on the verdict.



STRAFFORD, SEPTEMBER TERM, 1824.

MEREDITH vs. CANTERBURY.

3	80
71	38
3	80
72	113

Where the selectmen of the town of *M.* gave directions in writing to the sheriff, "to notify the selectmen and town clerk of the town of *C.*," that a pauper, settled in *C.*, had become chargeable, &c., and the sheriff left with the selectmen and town clerk of *C.* a copy of said directions; it was held not to be notice to the town, as required by the statute, to render the town of *C.* liable for the supplies furnished the pauper.

ASSUMPSIT, for the support of a pauper, alleged to have a settlement in the town of *Canterbury.*

The cause was tried here, at February term, 1823, upon the general issue, and a verdict returned for the plaintiffs, subject to the opinion of the court upon the following facts.

The notice, which *Meredith* gave to *Canterbury*, that the pauper had become chargeable, was directed to the sheriff of the county of Rockingham, or his deputy, and required them "to notify the selectmen and town clerk of the town of *Canterbury*," that the pauper had become chargeable, and that a certain sum had been expended for her relief. This was signed by the selectmen of *Meredith*, and was served by leaving a copy thereof with each of the selectmen, and with the town clerk of *Canterbury.*

Sullivan, for the plaintiffs.

Mason, for the defendants.

RICHARDSON, C. J. The statute of June 27, 1809, sec. 2, (1 *N. H. Laws* 360,) provides, "That in all cases, notice in writing, signed by a majority of the selectmen, or overseers, and stating the sum expended by them for the relief of such poor person, shall be given in the manner hereinafter mentioned, to the town, place, or person