

FOX & a. v. TUFTONBOROUGH.

Objections to the form of a petition for a highway, not presented during the first four days of the return term, are waived (88th rule of court); and the statute (Gen. St., c. 207, ss. 8, 9) allows amendments in matters of form or substance, in any stage of the proceedings.

The finding of the court, to which the report of road commissioners is returned, on matters of fact, is not open to exception.

PETITION, for a highway in Tuftonborough. After notice, the defendants appeared, and the petition was referred to the county commissioners, whose report, laying out the highway, the defendants moved to set aside. The objections to the report related to the form of the petition, the conduct of the commissioners and some of the favorers of the road, and the proceedings at the hearing before the commissioners.

The court, allowing the petition to be amended, and, on the other points of objection, finding that, as a matter of fact, there was no irregularity that had any influence upon the commissioners, or any effect upon the report, denied the motion. The questions of law were transferred on exceptions from the circuit court.

B. C. Carter and Copeland, for the defendants.

Fox and F. Hobbs, for the plaintiffs.

SAWYER, J. The objections to the form of the petition, not having been made during the first four days of the return term, were waived (88th rule of court); and the statute (Gen. St., c. 207, ss. 8, 9) allows amendments, in matters of form or substance, in any stage of the proceedings.

The finding of the court, in matters of fact, is not open to exception. *Patten's Petition*, 16 N. H. 278; N. H. Digest, Practice, V. (b).

Exceptions overruled.

SPRINGFIELD v. DRAKE.

When the assignee of a right to canvass for and sell a patented machine, as agent, is not disturbed in exercising the right, the assignor, in an action for the purchase-money, is not required to prove his principal's title.

Such an assignment conveys no interest in the monopoly conferred by the patent, and may be verbal.

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