

were those of trustees. *Healey v. Toppan*, 45 N. H. 243; *Leavitt v. Wooster*, 14 N. H. 550; *Gregg v. Currier*, 36 N. H. 200. Trustees have not the general power of disposition of trust property which executors have in the settlement of estates, but are limited to the purposes of the trust; and one of several trustees cannot, without the authority of his co-trustee, though an executor may, dispose of, bind, or pledge the trust property (*Crewe v. Dicken*, 4 Ves., Jr., 97; *Sinclair v. Jackson*, 8 Cow. 544; *Ridgeley v. Johnson*, 11 Barb. 527; 2 Bouv. Law Dic. 617); and a purchaser of trust property, having notice of the trust, takes it charged with all the burdens of the trust. The title of the Trust and Guarantee Company to the nine shares of bank stock fails, because Francis alone had no authority to pledge it; and, by finding the certificate of the shares in the name of "The estate of Supply Ham," and Francis's signature as "Executor," the company were chargeable with notice of the trust. *Shaw v. Spencer*, 100 Mass. 382.

A reconveyance of the bank stock is decreed, or, the Trust and Guarantee Company, at their option, may retain it, paying the income to Elizabeth Ham for life, and at her death, if the debt is not paid, retain Francis's interest in the fund.

DOE, C. J., did not sit.

STRAFFORD.

FULLER & a. v. BAILEY.

A motion to set aside a verdict on the ground that it is against the evidence, raises a question of fact to be decided at the trial term.

TROVER. The plaintiffs moved to set aside the verdict as being against the evidence.

Hobbs and Dodge, for the plaintiffs.

J. G. Hall, for the defendant.

DOE, C. J. Whether a verdict is against the evidence is a question of fact. The question is, whether the conflict between the verdict and the evidence is so strong that the court can see that the jury, in coming to their result, were influenced by passion, prejudice, partiality, or corruption, or unwittingly fell into a plain mistake. *Bellnap v. B. & M. R. R.*, 49 N. H. 358; *Childs v. S. & K. R. R.*, 20 Monthly Law Reporter 561, 562; *Leith v. Pope*, 2 W. Bl. 1327. When, there is oral testimony, such a question of fact should be decided at the trial

58	71
66	142
66	154
66	168
58	71
68	27
58	71
69	177
69	230
58	71
70	84

term by the presiding justice, who, having heard and seen the witnesses, has much better means of deciding it correctly than others can have who were not at the trial. *Hill v. New Haven*, 37 Vt. 501, 512. And when all the evidence is in writing, the case falls within the general rule, that questions of fact, arising at a trial in the trial term, are to be determined there, and not in the law term. The question, whether a verdict is against the evidence, is one which the court at the trial term would not ordinarily reserve, and which the court at the law term would generally refuse to consider if it were reserved. No question of law is raised by a motion of this kind, until the fact is found that the verdict was produced by passion, prejudice, partiality, corruption, or mistake. In this case that fact is not found.

Judgment on the verdict.

STATE v. SHAW.

Section 5 of c. 8, Laws of 1875, authorizing all registered pharmacists "to keep spirituous liquors for compounding their medicines," does not authorize them to sell spirituous liquor not compounded with medicine.

INDICTMENT, for the sale of two glasses of spirituous liquor to one Thomas J. Sweat, Feb. 6, 1876. Sweat and the defendant testified that the defendant sold Sweat two ounces of whiskey, in February, 1876. The defendant offered in evidence a certificate of a registered pharmacist, issued to him by the commissioners of pharmacy. The court excluded it, and the defendant excepted. The defendant also excepted to the instructions of the court directing the jury to return, with a general verdict, answers to certain questions, finding particular facts. The jury answered the questions, and found the defendant guilty, and he moved for a new trial.

Wheeler, for the defendant.

Shackford, solicitor, for the state.

DOE, C. J. Section 5 of c. 8, Laws of 1875, authorizing all registered pharmacists "to keep spirituous liquors for compounding their medicines," does not authorize them to sell spirituous liquor not mixed with medicine. The defendant's testimony proved the offence charged in the indictment. His guilt and the correctness of the general verdict being established by his own testimony, it is not necessary to consider his exception to the exclusion of his certificate, or his exception to the instructions which required the jury to answer certain questions.

Judgment on the verdict.