

GARLAND v. TOWNE.

The constitutional objection to the use of a referee's report as evidence in a jury trial, under the referee law of 1874, c. 97, s. 13, was waived, when the referee was appointed by consent of the parties.

CASE, reported in 55 N. H. 55. The cause was committed to a referee, with the consent of the parties, under the referee law of 1874, c. 97, s. 13. At a subsequent jury trial, the defendant excepted to the admission of the referee's report in evidence. Verdict for the plaintiff: motion of the defendant for a new trial.

Morrison & Hiland and *L. W. Clark*, for the plaintiff.

Cilley, Hunt, Bell, and *G. Y. Sawyer*, for the defendant.

ALLEN, J. The defendant, by assenting to the reference, waived the exception now taken. *Deverson v. Eastern Railroad*, ante, p. 129; *Smith v. Fellows*, ante, p. 169.

Judgment on the verdict.

STANLEY, BINGHAM, and CLARK, JJ., did not sit.

RICHARDSON & a. v. THE UNION CONGREGATIONAL SOCIETY OF FRANCES TOWN.

A by-law of a religious society, requiring a two-thirds vote of the members present to alter or amend its laws, is inoperative, and may be modified or repealed by a majority vote at any regular meeting of the society.

Equity will not enjoin a religious society against using a by-law which requires a vote of two thirds of the members present and voting to admit new members, even though such by-law was adopted for the purpose of preventing certain persons from joining the society.

IN EQUITY. The defendants are a religious society, organized under Act of 1819, s. 3. The plaintiffs, only a part of whom are members of the society, desire that the other part may become members, and pray that the defendants be enjoined against using a by-law which requires a two-thirds vote to admit new members. By article thirteen of the by-laws, any person could become a member by signing his name in the books of the society. At the annual meeting of the