

## WILBUR v. ABBOTT.

For general purposes, *nul tiel record* is the general issue in debt on a judgment.

DEBT, on a judgment recovered in Louisiana. This is the same case reported in 58 N. H. 272. The defendant pleaded *nul tiel record* to each count, and the plaintiff joined issue. The plaintiff filed three special replications to each plea, alleging that the defendant is estopped to plead *nul tiel record* because of certain proceedings in the courts of Louisiana (set forth in the replications), whereby it was adjudged that he was estopped to deny the validity of the judgment declared upon. The defendant moved to reject the replications, on the ground that the plaintiff, having joined issue on the plea of *nul tiel record*, cannot set up any other matter as an answer to that plea.

G. Y. Sawyer & Sawyer, Jr., for the plaintiff.

S. C. Eastman, for the defendant.

SMITH, J. In Gould Pl., c. 6, s. 10, *nul tiel record* is said to be the general issue in debt on judgment. So in Lawes Pl. 225. It is the only general plea in such an action, and puts in issue the verity of the record itself; and no evidence but that is admitted. *Pillsbury v. Springfield*, 16 N. H. 565, 572; Gould Pl., c. 6, s. 10; Story on Pl. 336. It is the proper plea when there is either no record, or where there is a variance in the statement of it. 1 Ch. Pl. 480, 481. The plea of *nul tiel record* does not conclude to the contrary, because the matter is to be determined by the court by inspection of the record. Hence it concludes with a verification, although it is a direct denial of the allegation in the declaration that there is such a record; and herein it differs from the general issue in other forms of action where the parties are at issue, when the defendant simply denies the essential part of the declaration. It confesses nothing, and avoids nothing; and there remains nothing for the plaintiff to do but to traverse the denial of the want of a record, concluding with a verification by the record.

For general purposes *nul tiel record* is the general issue, and in this case it can make no practical difference to the parties whether the estoppel is pleaded, or given in evidence under the issues which have been joined.

*Motion granted.*

STANLEY and CLARK JJ., did not sit: the others concurred.