

CHASE v. BAKER.

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An action of debt for a penalty for catching fish in the plaintiff's pond, in violation of G. L., c. 179, s. 1, cannot be maintained by one who was not owner or lessee of all the land under or around and adjoining the pond.

DEBT, for a penalty for catching fish in the plaintiff's pond, in violation of G. L., c. 179, s. 1.

Flanders, for the plaintiff.

Shirley, for the defendant.

DOE, C. J. The plaintiff was not owner or lessee of all the land under or around and adjoining the pond, and cannot maintain this action.

Judgment for the defendant.

ALLEN, J., did not sit: the others concurred.

SAWYER v. WOOD.

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Case 2
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Whether a writ was made by a deputy sheriff in violation of s. 21, c. 216 of the General Laws, presents a question of fact, to be determined at the trial term.

MOTION, by Elizabeth P. Gill, who appears as a subsequent attaching creditor, to dismiss the action because the writ was made by a deputy sheriff. Facts found by a referee.

March 25, 1879, the plaintiff went to the office of N. Butler, an attorney, to get him to make a writ of attachment against the defendant. Not finding Mr. Butler, and after consulting with John C. Pearson, a deputy sheriff, the plaintiff requested one Choate and Pearson to find Charles Butler, a son of N. Butler, and see if he could not make the writ. Charles said he thought he could make the writ if he could get into his father's office. At that time, and for about a year and a half previous, Charles was in the employ of his father, assisting him to some extent in his office, writing insurance policies and copying legal documents. During this time he had had some experience in making ordinary writs in assumpsit under his father's direction, but he had never studied law.

Having made an entrance into his father's office, Charles sat