

CASES
ARGUED AND DETERMINED
IN THE
SUPERIOR COURT OF JUDICATURE.

FOR THE
COUNTY OF COOS, JULY TERM,

A. D. 1833.

C. H. HILL, versus H. LOOMIS.

A man's only cow is exempted from execution by the laws of this state, although he may reside in another state.

And in trespass for taking in execution the only cow of the debtor, he is entitled to recover the value of the cow, although the proceeds of the sale of the cow have been applied in satisfaction of the execution.

TRESPASS for taking a cow at Colebrook on the 2d October, 1828. The defendant pleaded in bar, that, being a deputy sheriff, and having an execution against the plaintiff, he took the cow and sold her to satisfy the execution.

The plaintiff replied, that he was, at the time of the taking, a resident at Colebrook, in this county, and that the cow was his only cow.

The defendant rejoined, that the plaintiff was, at the time, a resident in Vermont, and not in this county, and concluded with a verification.

To this the plaintiff demurred, and the defendant joined in demurrer.

Hill,
v.
Loomis.

Stewart & Wells, for the plaintiff.

Young, for the defendant.

By the court. The rejoinder in this case is defective in substance. It is immaterial where the plaintiff resided. By the laws of this state a man's only cow is exempted from attachment, let him reside where he will.

Judgment for the defendant.

Young, for the defendant, then contended, that as the cow had gone to pay the plaintiff's debt, that circumstance ought to be considered in assessing the damages. 3 N. H. Rep. 144 ; 6 Mass. Rep. 20.

But the court said, that, although in certain cases, the goods taken having gone to pay the debt of the plaintiff, that circumstance was considered in assessing the damages, yet they thought a different rule ought to be applied in this case. The provision exempting a man's only cow from attachment was intended for the relief of the poor, and ought to be so construed as to give all which the legislature intended ; and the value of the cow, at least, ought in all cases to be given in damages. There will then be no inducement to a creditor to take his debtor's last cow.

H. PARSONS *versus* J. N. ALDRICH.

Arbitrators are presumed to have pursued the submission until the contrary appears.

It is necessary to prove the publication of the award only in cases where it has been stipulated in the submission that the award shall be notified to the parties.

A demand is necessary to sustain an action on an award only in cases where the award is to pay money on request.

ASSUMPSIT on an award made under a parol submission.