

for her personal injuries. The parties desire the opinion of the court upon the question what damages the plaintiff is entitled to recover. No plea or demurrer has been filed. The facts alleged are neither admitted nor denied. What the issues will be is mere matter of conjecture. It does not seem necessary or useful to consider how far the common-law right of the husband to the services of his wife has been affected by *c.* 2040, *s.* 1, Laws 1865 (G. S., *c.* 164, *s.* 1), until the facts are found by agreement or otherwise, or something is presented more substantial than a hypothetical case. *State v. Stevens*, 36 N. H. 59; *Sceva v. True*, 53 N. H. 627.

*Case discharged.*

STANLEY, J., did not sit; the others concurred.

*Sulloway & Topliff*, for the plaintiff.

*J. Foster and D. Cross*, for the defendants.

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[Merrimack, June, 1882.]

ELA v. ELA.

LIBEL, for divorce. At the trial term the facts were found, a divorce was decreed, and the defendant excepted.

*S. C. Eastman and J. Y. Mugridge*, for the plaintiff.

*S. Dana and C. P. Sanborn*, for the defendant.

STANLEY, J. There was evidence for the plaintiff on the questions of fact, and no error of law appears.

*Exceptions overruled.*

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

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[Merrimack, June, 1882.]

WALLACE v. MOULTON.

ASSUMPSIT. The defendant was in the employ of Webster, and was taken sick. Wallace was called to attend her as a physician, and charged the defendant six dollars, which Webster paid without Moulton's request, understanding that it would be allowed in settlement with Moulton for her labor. Subsequently, Moulton sued Webster on account for the labor, and Webster filed a set-off, which included the item of six dollars paid Wallace. After the set-