

[Sullivan, December, 1882.]

DAVIS v. PARTRIDGE.

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ASSUMPSIT, for labor. Facts found by a referee, who reports in substance that both parties understood that the defendant's husband was to pay the plaintiff's claim.

*Judgment for the defendant.*

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

*H. W. Parker*, for the plaintiff.

*H. Holt*, for the defendant.

[Grafton, December, 1882.]

STATE v. CASHMAN.

INDICTMENT for embezzlement. Facts agreed. Counsel disagreeing as to the question intended to be raised, no decision was rendered, and the case was discharged.

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

*A. S. Batchellor*, solicitor, for the state.

*Drew, Jordan & Carpenter, Bingham, Aldrich & Remick, and Bingham & Mitchell*, for the respondent.

[Rockingham, June, 1883.]

AYER, *A'pt.* v. HOW, *Ex'r.*

APPEAL from the refusal of the probate court to vacate a decree settling the account of the defendant as executor of David Messer, the plaintiff's grandfather. Facts found by the court.

*G. C. & G. K. Bartlett* and *Wiggin & Fuller*, for the plaintiff.

*J. S. H. Frink*, for the defendant.

STANLEY, J. The decree of settlement was made in pursuance of a written agreement of the plaintiff and all other parties in

interest. The agreement was not obtained by fraud, and no cause is shown for vacating the decree.

*Appeal dismissed.*

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

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[Rockingham, June, 1883.]

FIELD v. SMITH, *Adm'r.*

APPEAL from the decision of the commissioner disallowing the plaintiff's claim.

The action was entered at the last January term. Copies of the petition and declaration were produced and filed, but there had been no service thereof or of any order of notice upon the defendant, who appeared specially, and within the first four days of the term moved that the action be for that cause dismissed. The motion was not disposed of, and now at this term the defendant renews the motion, to which the plaintiff objects, and moves for leave to serve the defendant now with a copy of the petition and declaration, to which the defendant objects.

*W. R. Patten*, for the plaintiff.

*G. C. & G. K. Bartlett*, for the defendant.

CLARK, J. No reason appears from the case why the appeal should not be dismissed for want of service; and from the fact that the plaintiff has furnished no brief, we infer that no sufficient reason exists.

*Appeal dismissed.*

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

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[Carroll, June, 1883.]

HODGDON v. MUDGETT.

TRESPASS *cl. qu.* Referee's report for the defendant.

*J. H. Hobbs*, for the plaintiff.

*Copeland & Edgerly*, for the defendant.