

ment should be made. The payments were made, and the deed was taken September 17 of that year. The referee, to whom the cause was sent, reported that the plaintiff was deceived and damaged by the false and fraudulent representations of the defendant; but when the plaintiff ascertained that fact, aside from false representations as to a certain boiler, did not appear in the reported facts.

At the trial the defendant contended that the plaintiff was chargeable with knowledge of everything which he obtained during his occupancy of the premises before the taking of the deed, or which he could have ascertained by reasonable inquiry. The referee, *pro forma*, so ruled, and suspended the trial for the purpose of obtaining the opinion of the court upon his ruling.

The opinion was, that evidence to support the defendant's contention would be competent for some purpose, but that its effect could not be determined upon the facts reported.

*Case discharged.*

*F. D. Currier and Barnard & Barnard*, for the plaintiff.

*G. W. Murray and Pike & Parsons*, for the defendant.

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[Merrimack, June, 1884.]

GALE *v.* ELA.

ASSUMPSIT, to recover pay for boarding the defendant. Facts found by a referee. The defence was, that the contract for board was made with the plaintiff's husband, and not with her. The defendant's evidence that the contract was made with the husband was held admissible, although it did not appear that the plaintiff had knowledge of that fact.

*Leach & Stevens*, for the plaintiff.

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

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[Hillsborough, June, 1884.]

PRESTON, *Adm'r*, *v.* CUTTER, *Ex'r*, *Ap't*.

PRESTON, *Adm'r*, *v.* MONROE & *a.*, *Ap'ts*.

*G. B. French and Jeremiah Smith*, for the plaintiff.

*E. S. & H. C. Cutter*, for the defendants.

SMITH, J. We decline to express any opinion on the case as now presented. The facts agreed are so meagre and indefinite that it is apparent a subsequent trial of substantially the whole case must be had. The facts will be found at the trial term.

All concurred.

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[Hillsborough, June, 1884.]

DENNISON MANUFACTURING CO. v. WHITE.

REPLEVIN. Under the defendant's objection, a witness testified what amount of goods the plaintiffs' books showed had been sold by the plaintiffs to one Baker. The books not being duly authenticated, and a verdict being returned for the plaintiffs, a new trial was granted.

*Sulloway, Topliff & O'Connor and W. J. Copeland*, for the plaintiffs.

*H. E. Burnham, N. H. Wilson, and Briggs & Huse*, for the defendant.

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[Coös, June, 1884.]

BENTON v. WRIGHT.

On the report of a referee, the only question was as to the sufficiency of demands made by the defendant upon the plaintiff for a deed of certain land and for a certain promissory note.

STANLEY, J. The referee decided the question of fact in favor of the plaintiff, and no error of law appears in his finding.

SMITH and CARPENTER, JJ., did not sit: the others concurred.

*Ray, Drew, Jordan & Carpenter*, for the plaintiff.

*Bingham, Aldrich & Remich*, for the defendant.

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[Strafford, December, 1884.]

COLBATH v. ANDERSON & a.

BLODGETT, J. A mere naked possession of land is sufficient to maintain trespass against a wrong-doer without title; and so say all the authorities.

*Exceptions overruled.*

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