

of partners and tenants in common, are sufficient to prohibit such an adverse resort to a tax title by either as in the fair understanding of both would be a breach of marital faith. But apart from mutual interests of property, which are of but secondary importance, such a breach of faith is a legally impossible destruction of that relation of trust established by the marriage, and which society has even more interest in preserving than the parties themselves. While unjust disabilities of the wife have been removed, there are implied stipulations of the contract which each party remains justly disabled to violate.

*Judgment for the plaintiff.*

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

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WATTS *v.* LYNCH.

Money paid upon a wager on the result of an election may be recovered back, under Gen. Laws, c. 272, ss. 12, 13.

ASSUMPSIT, to recover \$50 deposited by the plaintiff with a stakeholder, about November 1, 1884, upon a wager with the defendant as to the result of the coming presidential election. The defendant won the bet, and the stakeholder thereupon paid over the money to him. Facts agreed.

*Osgood & Prescott*, for the plaintiff.

*Sulloway, Topliff & O'Conner*, for the defendant.

BLODGETT, J. Section 12 of c. 272, Gen. Laws, makes void all bets and wagers upon any question in which the parties have no interest in the subject except that created by the wager; and s. 13 gives the loser a right of action against the winner for any money or property won and received by him upon such bet or wager. Consequently the otherwise fatal objection of *particeps criminis* does not avail against the plaintiff; and as the agreed facts suggest no other defence, nothing appears which precludes him from a recovery.

*Judgment for the plaintiff.*

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