

MUDGETT v. EMERSON.

There is no error of law in the admission of evidence that has some tendency to prove the issue, but which is in fact so slight and remote that it might properly be excluded on that ground.

SMITH, J. The plaintiff seeks to recover for her services in the defendant's family. The plaintiff's evidence tended to show that the services were performed upon his promise that she should be paid, and that he had said repeatedly that she should be well paid for her work. The defendant denied any promise, and claimed that the services were rendered by her as a member of his family, without expectation of payment. As bearing upon the question of the understanding of the parties, the plaintiff introduced evidence, subject to exception, of the extent of his farm and the amount of his property.

If the defendant's circumstances were such that he was compelled to employ help in his family, that fact might have some tendency to show whether the plaintiff lived with him as a dependent relative or stranger, or as a hired servant. The larger his farm, the more occasion he would have to employ assistants in carrying it on; and the more help upon the farm, the more occasion he would have for household help if the farm hands were boarded in his family. So the fact whether he was possessed of a large or considerable property, or was a person of moderate means or in straitened circumstances, might bear on the probabilities of his hiring family servants. *Eaton v. Welton*, 32 N. H. 352. If the evidence could have been excluded as slight and remote, or as misleading and unfairly prejudicial (*Amoskeag Manufacturing Co. v. Head*, 59 N. H. 332), its admission was not error of law.

Exception overruled.

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

John P. Bartlett and *Thomas O. Knowlton*, for the defendant.

David A. Taggart and *Elijah M. Topliff*, for the plaintiff.

JONES & a. v. CONCORD & MONTREAL RAILROAD & a.

The right to take new stock in the increase of capital authorized by chapter 3, Laws 1891, belongs to the shareholders in all the classes constituting the stockholders of the Concord & Montreal Railroad in proportion to the number of shares held by each shareholder. *Jones v. Railroad*, 67 N. H. 119, affirmed.