

[Hillsborough, December, 1891.]

ELLIOTT & a. v. THE PUBLIC GRAIN & STOCK EXCHANGE.

ASSUMPSIT, founded upon s. 13, c. 272, Gen. Laws. Verdict for the plaintiffs. No exception was taken by the defendants at the trial.

*George W. Prescott and Burnham & Brown*, for the plaintiffs.

*Sulloway & Topliff*, for the defendants.

CHASE, J. No question of law is presented in the case.

*Judgment on the verdict.*

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

[Sullivan, December, 1891.]

JACOBS v. CROYDON.

CASE, for injuries from a defective highway. Verdict for the plaintiff. The plaintiff testified on cross-examination that he had previously been injured by a defective highway in another town, and had brought an action for the injury. After examining him at length in regard to the extent and character of the injury, the defendants asked him whether he recovered of the town. The question was excluded.

*Shepherd L. Bowers and Hosea W. Parker*, for the plaintiff.

*George R. Brown*, for the defendants.

CHASE, J. The evidence called for was irrelevant.

*Exception overruled.*

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

[Grafton, December, 1891.]

DAVIS, *Adm'r*, v. RUMNEY.

CASE, for injuries to the plaintiff's intestate upon a highway. Verdict for the plaintiff. The statement of claim filed by the plaintiff represented that the deceased and his horse and carriage

were thrown "over and down a bank on the westerly side of said highway at a point indicated by a stake between two large rocks, about 847 feet southerly from a point in said highway where a line running easterly on the west side of Lewis Loveland's house crosses said highway." The highway runs in a northerly and southerly direction, and Loveland's house is on the westerly side of it. The stake referred to stood on the westerly side of the road between two large rocks, at a distance of 860 feet from a point opposite Loveland's house. There was no controversy as to where the accident happened, and no claim that the officers of the town had any difficulty in finding it. From these facts the court found that the above statement as to the place of the accident was sufficient, and the defendants excepted. The exception was overruled. *Carr v. Ashland*, 62 N. H. 665, 668; *Robin v. Bartlett*, 64 N. H. 426, 428. Other exceptions taken at the trial were not pressed.

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

*Joseph C. Story, Samuel Herbert, Drew & Jordan, and Bingham & Bingham*, for the defendants.

*Daniel Barnard and Burleigh & Adams*, for the plaintiff.

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[Grafton, December, 1891.]

KENDALL v. DRAKE & a.

TRESPASS, for assault and battery. The dividing line between the premises of adjoining owners was in dispute. The plaintiff, at the request of one of the owners, leaned against the fence erected by him upon the strip of land in dispute, one arm resting upon one of the rails, for the purpose of preventing its removal by the defendants. It being found that one of the defendants, with the approval of the others, in attempting the removal of the fence, injured the plaintiff by a want of due care in striking the rail against which she was leaning, the plaintiff recovered judgment.

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

*Fling & Chase*, for the plaintiff.

*George A. Emerson and Barnard & Barnard*, for the defendants.