

Carroll, }
June, 1895. }

WOODBURY v. WHITING.

CASE, for slander. The plaintiff excepted to evidence offered by the defendant in mitigation of damages. Verdict for the defendant.

George W. M. Pitman and James A. Edgerly, for the plaintiff.

Elmer J. Smart and John B. Nash, for the defendant.

PARSONS, J. The jury could not have found for the defendant if they had not found that the defendant did not speak the words alleged. *Wier v. Allen*, 51 N. H. 177, 180. If the defendant did not make the charge alleged as the slander, it is of no consequence whether the evidence excepted to was or was not competent upon the question of damages. The case presents no reason for the consideration of that question. *Wier v. Allen*, *supra*.

Exception overruled.

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

Merrimack, }
June, 1895. }

MECHANICKS NATIONAL BANK v. CONCORD.

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NATIONAL STATE CAPITAL BANK v. SAME.

FIRST NATIONAL BANK v. SAME.

PETITIONS, for the abatement of taxes. Facts agreed.

April 1, 1894, the surplus capital of the Mechanicks National Bank was \$84,551, that of the National State Capital Bank was \$147,924.40, and that of the First National Bank was \$177,526.95; and on that day the defendants assessed against the petitioners a tax of two per cent upon the sums stated.

The surplus capital of the Mechanicks National Bank to the amount of \$49,700 was invested in stock of New Hampshire railroads, stock of the Board of Trade (a corporation owning no property except real estate), and bonds of the city of Concord.