

that its provisions were intended for any different class of debtors than those provided for in the clauses which precede and follow it.

The object of the statute was to prevent individual debtors and their families from being reduced to want by securing to them some of the comforts and necessities of life for their temporary need, and tools with which the debtor may continue to earn a living. Partners are entitled to exemptions only as individuals and out of property which they individually own. *Peaslee v. Sanborn*, 68 N. H. 262. The same conclusion was reached under similar statutes in *Pond v. Kimball*, 101 Mass. 105, and *Bonsall v. Comly*, 44 Pa. St. 442.

*Exception overruled.*

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

Merrimack, }  
Dec., 1897. }

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STATE v. COX.

On the trial of an indictment for a second offence of illegally keeping malt liquor for sale, a former conviction may be proved by the original complaint and the minutes of the clerk of court thereon, showing that the defendant pleaded guilty and was fined.

INDICTMENT, for a second offence of illegally keeping malt liquor for sale. Verdict for the state. The alleged former conviction was before a police court; and the only record of it was the original complaint with minutes indorsed upon it by the clerk of court, showing that the defendant pleaded guilty and was fined. The complaint and minutes were received in evidence, subject to the defendant's exception.

*George M. Fletcher*, solicitor, for the state.

*Daniel B. Donovan*, *Almon F. Burbank*, and *Albin, Martin & Howe*, for the defendant.

PIKE, J. The original complaint and the minutes indorsed upon it contained explicit evidence of all facts required for extending the judgment. They were the only evidence of the judgment in existence at the time of trial. The court had authority to allow a formal record to be made from them before receiving the evidence. *Willard v. Harvey*, 24 N. H. 344; *Ballou v. Smith*,

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69	246
71	486

29 N. H. 530. The extended record would prove the same facts with the same force that the complaint and minutes proved. The defendant would receive no benefit by the change in the form of proof.

It is held in Massachusetts under similar circumstances that the complaint and clerk's minutes are competent evidence of the judgment. *Pruden v. Alden*, 23 Pick. 184, 187; *Commonwealth v. Hatfield*, 107 Mass. 227, 231; *Good v. French*, 115 Mass. 201, 204. Similar evidence was received, apparently without objection, in *Caouette v. Young*, 67 N. H. 159.

*Exception overruled.*

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

Hillsborough, }  
Dec., 1897. }

GREGG & a. v. PAGE BELTING CO.

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70	306
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71	496
71	497
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72	224
72	548
72	571
69	247
74	20

Where a known, described, and defined article is ordered of and supplied by a manufacturer, there is no implied warranty that it shall answer the particular purpose for which it was stated to be required.

A judgment is conclusive as to all facts litigated and determined in the action, against the defendant of record and one who was seasonably notified and requested to defend.

Where a judgment in an action for personal injuries necessarily involves a finding of actual negligence on the part of the defendant, he cannot recover contribution or indemnity in a suit against a third party, who was bound by the judgment in the original action and whose negligence co-operated to cause the injury, if at the time of the accident neither could have prevented it by the exercise of ordinary care.

CASE, for negligence. The plaintiffs seek to recover the amount paid upon a judgment obtained against them by Joseph Levesque for the damages sustained by him from the fall of the plaintiffs' elevator. The plaintiffs allege that the fall of the elevator and Levesque's consequent injury were caused by the negligence of the Belting Company in repairing the belt by which the elevator was sustained and operated, and that Levesque recovered against them on that ground. The Belting Company were seasonably notified of Levesque's suit and requested to defend it.

The plaintiffs put in evidence Levesque's judgment against them and proved its payment. The belt was manufactured by