

CASES
DETERMINED IN
THE SUPREME COURT
OF
NEW HAMPSHIRE.

HILLSBOROUGH, JUNE, 1899.

JAQUITH *v.* BENOIT.

Whether a declaration in debt may be amended by filing a count in case is a question determinable at the trial term.

In an action to recover double damages for the bite of a dog, only the actual damages are to be assessed by the jury.

DEBT, to recover double damages for the bite of a dog. Subject to the defendant's exception, the court allowed the plaintiff to amend by changing the form of action to case, and held that the defendant was not entitled, as a matter of right, to have the jury double the damages.

Wason & Jackson, for the plaintiff.

Henry B. Atherton, for the defendant.

YOUNG, J. The question of allowing the amendment was for the trial term. The defendant had no right to demand that the merely ministerial act of doubling the damages should be performed by the jury; for it is the province of the jury to find facts, and the only question of fact in this part of the case was the plaintiff's actual damages.

Exceptions overruled.

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