

Hillsborough, }
Dec., 1900. }

LATON *v.* BALCOM.

WRIT OF ENTRY. Trial by the court.

George B. French, for the plaintiff.

Charles W. Hoitt and *Burns & Burns*, for the defendant.

PARSONS, J. The controversy as to the title cannot be settled without a determination of the validity of the tax title under which the defendant claims. This cannot be decided until it is found who was the occupant of the *locus* at the time of the sale. Upon this question the case contains evidence only. It is not advisable to attempt to pass upon the legal questions presented by the remaining facts until this fact is found. *Fellows v. Fellows*, 68 N. H. 611; *State v. Railroad*, *ante*, p. 421.

Case discharged.

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

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SALVAIL *v.* CATHOLIC ORDER OF FORESTERS.

ASSUMPSIT, upon a contract to pay a death benefit. Trial by jury and verdict for the plaintiff. The sole defence was that the deceased was suspended for non-payment of assessments. Before his death all arrearages were paid to the proper officer, and received without objection. The defendants excepted to evidence tending to show that the by-law under which the suspension was ordered had been habitually disregarded, and that the deceased had been assured by the defendants' officers that payment of arrears would restore him to membership.

Bertis A. Pease, for the plaintiff.

Emile H. Tardivel, *Henri T. Ledoux*, and *Henry N. Hurd*, for the defendants.