

Sullivan, }
 June 29, 1905. }

ELLIS v. BLUE MOUNTAIN FOREST ASS'N.

The defendants' motion to bring forward from the June law term, 1898, and for a rehearing of the questions then decided (69 N. H. 385) was denied, it appearing that the remedy to which the defendants were entitled, if any, was a new trial, as to which no question was presented to the court by the motion.

Albert S. Wait, for the motion.

Ira Colby, opposed.

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 June 29, 1905. }

BARTON, *Trustee*, v. ROWELL.

ASSUMPSIT. Trial by jury, verdict for the plaintiff, and motion for a new trial. Transferred from the November term, 1904, of the superior court by *Peaslee, J.*

Jesse M. Barton, for the plaintiff.

Albert S. Wait, for the defendant.

WALKER, J. "A new trial may be granted in any case, when through accident, mistake, or misfortune justice has not been done and a further hearing would be equitable." P. S., c. 230, s. 1. After a verdict for the plaintiff, the defendant filed a petition in the superior court under this statute, alleging that new evidence had been discovered which upon another trial would change the result. Upon this petition the defendant introduced evidence tending to prove his position, but the court dismissed the petition, and the defendant excepted. The ground for dismissing the petition is not stated, and no question of law is necessarily raised by the exception. The order of the court does not appear to be erroneous.

Exception overruled.

All concurred.