

Upon the issue of authority the case stands no better. There was evidence that at about the time of this transaction the defendants were engaged in the business of buying up claims against Levine. This would warrant the conclusion that each partner had authority to bind the firm by such a purchase. *National State Capital Bank v. Noyes*, 62 N. H. 35.

Exception overruled.

All concurred.

Hillsborough, }
May 8, 1908. }

HEAD & DOWST CO. v. NEW ENGLAND BREEDERS' CLUB

ASSUMPSIT, to enforce a builder's lien. Transferred from the September term, 1907, of the superior court by *Peaslee, J.*, upon exceptions taken at the trial. The New England Breeders' Club did not appear at the trial, but the case was defended by an assignee appointed in proceedings under the state insolvency statute. When the case came on for argument, it appeared that the assignee in insolvency had surrendered the property to a trustee appointed in proceedings in bankruptcy under the federal statute and had been discharged as assignee. The trustee in bankruptcy had notice of the proceedings. Neither he nor the defendants of record appearing to sustain the exceptions, they were overruled without consideration.

PEASLEE, J., did not sit.

Burnham, Brown, Jones & Warren, for the plaintiffs.

Henry F. Hollis, as *amicus curiæ*.