

Currier although no station was announced saw passengers alighting and was led to believe he had arrived at his destination, Nashua; that these passengers opened the gates left closed by the brakeman, and hence Currier had no warning it was not intended passengers should here depart from the train, and that finding himself in the yard instead of at the station, Currier was run over while endeavoring to reach the station. But if all this could be found without evidence, Currier was not killed as he stepped from the car but in some way got himself beyond the front end of the cars.

If he was not guilty of negligence in failing to remain in the car until the station was announced (*Moses v. Railroad*, 76 N. H. 570) he knew as soon as he reached the ground that the stop was not a station stop and he could not be found in the exercise of care while wandering recklessly among and over the tracks of a railroad yard with which he was unfamiliar, without evidence of a reason for such course. Various explanations may be offered and surmises suggested to account for Currier's conduct but they all rest in conjecture and not upon evidence. It is too well settled to require the citation of authority that the law does not transfer the defendants' property to the plaintiff without proof that the defendants' fault did, while the injured party's did not, cause the injury.

The case discloses no open and visible connection between the defendants' alleged fault and the injury, and there is no proof of circumstances from which the injured party's freedom from fault can be found. Mere conjecture cannot be substituted for proof.

Exceptions sustained: verdict and judgment for the defendants.

All concurred.

Hillsborough, }
April 4, 1916. }

JESSE S. WESTON v. HUDSON.

GUY H. HOPKINS v. SAME.

GEORGE N. DOOLEY v. SAME.

ASSUMPSIT, to recover for services rendered and expenses incurred by the plaintiffs, selectmen of the defendant, while serving as members of a committee for the erection of a bridge between the

defendant town and the city of Nashua. Transferred as to the question of liability by *Sawyer, J.*, from the September term, 1915, of the superior court, upon an agreement as to the facts and without a ruling.

Harry P. Greeley (by brief and orally), for the plaintiffs.

Charles J. Hamblett, Marshall D. Cobleigh and *Doyle & Lucier* (*Mr. Cobleigh* orally), for the defendant.

PARSONS, C. J. If the plaintiffs as members of a bridge committee can be considered public officers they can recover only the salary incident to the office. If, however, they are to be considered agents or employees of the town they can recover only such compensation as the town has expressly or by implication agreed to pay. Both propositions are questions of fact. In the absence of a finding or agreement favorable to the plaintiffs upon one of these propositions, no liability is shown, and it is unnecessary to determine whether the plaintiffs were public officers or mere employees of the town.

Judgment for the defendant.

All concurred.

Cheshire, }
April 4, 1916. }

PHILIP H. FAULKNER, *Conservator*, v. FRANK H. JEFTS.

BILL IN EQUITY, to cancel on the ground of fraud a deed by which the plaintiff's ward conveyed his farm to the defendant. The court made a decree according to the prayer of the bill. A bill of exceptions to this decree was allowed by *Kivel, J.*, at the April term, 1915, of the superior court.

John E. Allen, Charles H. Hersey, and Philip H. Faulkner, pro se, (*Mr. Hersey* orally), for the plaintiff.

Joseph Madden (by brief and orally), for the defendant.

YOUNG, J. Instead of there being no evidence to sustain the court's finding, the conclusion that the deed was procured by fraud is the only one that can fairly be drawn from the evidence.