

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.

The defendant's contention that it was an abuse of discretion to order him to reconvey without providing for the repayment of what he gave for the farm is equally without merit. There is no finding that he paid anything for the farm; and that he did is not the only conclusion of which the evidence is fairly capable.

Exception overruled.

All concurred.

Hillsborough, }
May 2, 1916. }

ELMER E. AVERY, *Adm'r*, v. JEREMIAH J. DOYLE, *Adm'r*.

ASSUMPSIT. Transferred by *Sawyer, J.*, from the September term, 1915, of the superior court.

Charles J. Hamblett and Marshall D. Cobleigh, for the plaintiff.

Doyle & Lucier and Henri A. Burque, for the defendant.

WALKER, J. The question presented in this case having been decided in *Brewster v. Brewster*, 52 N. H. 52 (see also *Cummings v. Farnham*, 75 N. H. 135), further discussion is unnecessary.

Exception overruled.

All concurred.

Hillsborough, }
May 2, 1916. }

HANCOCK v. THOMAS F. SHEA.

BILL IN EQUITY, to restrain the defendant from obstructing a highway. Trial by court and decree for the plaintiff. Transferred from the January term, 1915, of the superior court by *Branch, J.*

Jones, Warren, Wilson & Manning, for the plaintiff.

Doyle & Lucier, for the defendant.