

from whom the mother has obtained a divorce, custody of their child and alimony for the support of herself and child, it would seem that he would not be liable to prosecution, if the needs of the child were not provided for by the mother. Other instances might be suggested tending to show that it was the violation of an existing legal duty of the parent that the enactment of the statute was intended to prevent by declaring it to be a crime.

As, therefore, it appears that the respondent was under no legal duty either by statute or contract to support the child, of which he is alleged to be the natural father, the prosecution cannot be sustained.

Case discharged.

All concurred.

Rockingham, }
June 29, 1918. }

ELDRIDGE BREWING COMPANY v. COCHECO BOTTLING COMPANY.

An assignment of all a debtor's assets for the benefit of his creditors is not a sale in bulk within the meaning of Laws 1909, c. 69, s. 1; and hence is valid against a subsequent attachment, though there has been no compliance with the provisions of that statute.

ASSUMPSIT. The defendants assigned all their assets including stock in trade, book accounts, tools and machinery to one O'Malley for the benefit of all their creditors. After he had accepted the trust and taken possession of the property, the plaintiffs attached it as the defendants' property. The court permitted the assignee to intervene in this suit and ask for an order dissolving the attachment. Transferred by *Allen, J.*, without a ruling from the January term, 1918, of the superior court.

Ralph C. Gray and *Ernest L. Guphill*, for the plaintiffs.

Fred H. Brown and *Hughes & Doe*, for the defendants.

YOUNG, J. The plaintiffs are creditors of the defendants and they contend that the assignment is void as to them because of Laws 1909, c. 69, s. 1. While an assignment like the one in question may be a sale for some purposes (*Kenefick v. Perry*, 61 N. H. 362; *McGreenery v. Murphy*, 76 N. H. 338; *Clough v. Glines*, 77 N. H. 408; *Goodrich v. Woodsome*, 78 N. H. 488) it is not a sale within the

ordinary meaning of that term. This tends to the conclusion that such transactions are not void under the provisions of s. 1. The fact such a transaction tends rather to prevent than to promote the evil at which that section is aimed,—that peculiar to merchants selling their stock in trade in order to defraud their creditors,—also tends to the conclusion that such an assignment is not a sale within the meaning of that term as it is used in this section. In fact all the evidence points to this conclusion. It must be held, therefore, that the attachment of the trust property was illegal.

Case discharged.

All concurred.

Rockingham, }
June 29, 1918. }

WILLIAM CASEY v. FRANK JONES BREWING COMPANY.

An employee in a brewery may maintain an action against his employer upon Laws 1911, c. 163 for injuries received from a sliver of iron on the hoop of a barrel which the plaintiff was rolling, there being evidence that the defendant should have discovered and remedied the defect.

Though there is no direct testimony as to pain suffered from an injury, damages may be awarded for such pain as is the usual accompaniment of such an injury.

CASE, under Laws 1911, c. 163, to recover for injuries suffered by the plaintiff while employed in rolling barrels of ale across a cellar in the defendant's brewery. Trial by jury and verdict for the plaintiff. The injury was caused by a sliver of iron which projected from a hoop on a barrel. The sliver appeared old and rusty, and the barrel was not roughly handled after it passed from the control of those whose business it was to inspect and repair it. The defendant excepted to the denial of its motion for a nonsuit and to certain instructions given to the jury. Transferred from the May term, 1917, of the superior court by *Sawyer, J.*

Ralph C. Gray and Ernest L. Guptill, for the plaintiff.

Charles H. Batchelder and John L. Mitchell, for the defendant.

PEASLEE, J. The defendant's claim that it is not liable under Laws 1911, chapter 163, because at the time of the accident the