

exception. At all events it was merely a colloquy between counsel which the court found did not render the trial unfair. And it cannot be said, as a matter of law, that the remark was so inconsistent with the requirements of a fair, legal trial that the verdict should be set aside.

*Exceptions overruled.*

All concurred.

Cheshire, }  
April 5, 1921. }

NEWPORT SAVINGS BANK *v.* JOHN BLISS.

The affidavit of posting notice of a tax sale, required by P. S., c. 61, s. 7, need not be signed by the collector; and his account of the sale need not state the dates of publication of the notice.

BILL IN EQUITY, to set aside a tax deed. Heard by *Kivel*, C. J., who dismissed the bill and allowed the plaintiff's bill of exceptions at the April term, 1920, of the superior court. The plaintiff's grounds for exception, as set forth in the bill, are that the affidavit of posting the advertisement of the tax sale, required by P. S., c. 61, s. 7, was not signed by the collector; and that his account does not give the dates on which the advertisement was published.

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

*Roy M. Pickard* (by brief and orally), for the defendant.

YOUNG, J. It is enough, in so far as the plaintiff's first exception is concerned, to say that the statute does not require the collector to sign his return. What it does require is that he "shall, within ten days after any sale, deliver to the town clerk an account of the sale, with the charges thereof, under oath, copies of the newspapers in which the advertisement was published, and of the advertisement posted, with an affidavit that it was so posted, which shall be kept on file; and the account, advertisement, and affidavit shall be recorded by the town clerk." P. S., c. 61, s. 7.

This also disposes of the second exception; for while P. S., c. 61, s. 3, requires the collector to cause a copy of the advertisement to be published three weeks successively in certain newspapers, the first publi-

cation to be more than eight weeks before the day of sale, section 7 does not require him to return the dates on which the papers containing the advertisements were published. What it does require is that he file copies of the papers with the town clerk.

*Exceptions overruled.*

All concurred.

Cheshire, }  
April 5, 1921. }

LOUIS DEFOE v. FRED A. STRATTON.

A master is liable to a stranger for the consequence of his servant's misconduct, if he was doing what he was employed to do at the time he caused the injury complained of though not in the way expected by the master.

CASE, to recover for personal injuries received in a collision between a cart on which the plaintiff was riding and an automobile of the defendant, driven by the defendant's servant, Joseph Jalbert, on a public highway in Jaffrey. Trial by jury and verdict for the defendant.

The plaintiff's evidence tended to prove that the defendant runs a livery stable and transports passengers both by team and automobile. Jalbert was experienced in driving Ford cars, of which the defendant had two, and had been hired by the defendant to work in and around the stable and to drive the Ford cars. The defendant also had a Cadillac, which was used to transport passengers, but this car was driven only by the defendant's foreman, Leon W. Priest. The defendant and his foreman had given Jalbert express directions never to touch the Cadillac. Jalbert slept in the defendant's stable, and it was a part of his duty to take passengers to the early morning trains. Orders were left at the office for the transportation of passengers to the early morning train, and it was Jalbert's duty to scrutinize the records and see that the passengers were carried to the railroad station. Prior to the collision he had always done this either by team or with a Ford.

On the evening prior to the collision, Jalbert had made use of one of the defendant's Ford cars to transport passengers, and the supply of gasoline had given out, so that Jalbert had to abandon the car about forty rods from the defendant's stable. The other Ford car was in the