

law. The right which the plaintiff claims has been infringed has neither been established at law, admitted by the defendant, nor long exercised by the plaintiff, and it appears from the pleadings that the existence of the right is the sole matter in controversy between the parties. The determination of this question involves the title to real estate, and it is the right of the defendant to have the issue determined by a jury in an action at law.

*Bill dismissed.*

SMITH and BLODGETT, J.J., did not sit: the others concurred.

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MCDANIEL v. TEBBETTS & a.

Assessors of taxes are not liable for errors of judgment, unintentional mistakes, irregularities, or illegalities in the assessment.

CASE, for illegal assessment of taxes against the plaintiff by the defendants, as assessors of B. for 1879. The declaration did not charge nor the evidence show bad faith or wilful misconduct in making the assessment. A nonsuit was ordered, and the plaintiff excepted.

*Woodman & Whittemore and Copeland*, for the plaintiff.

*Frink and A. R. Hatch*, for the defendants.

CLARK, J. Assessors of taxes are not liable for errors of judgment, unintentional mistakes, irregularities, or illegalities in the assessment. In cases of erroneous assessment and overvaluation, the tax-payer has an adequate remedy by appeal, in the form of a petition for abatement. *Edes v. Boardman*, 58 N. H. 580, 596; *Odiorne v. Rand*, 59 N. H. 504.

*Exceptions overruled.*

BLODGETT, J., did not sit: the others concurred.

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BELKNAP.

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PEARSON v. PEARSON.

The common-law right of the husband to make a post-nuptial settlement upon his wife has not been changed by statute, and such settlement is valid when not fraudulent as to the creditors of the husband.