

Strafford,
No. 4632.

ANNA K. DOLPH, *Adm'x v.* MARIE E. HAGER.

Argued September 3, 1958.

Decided October 7, 1958.

Burns, Calderwood, Bryant & Hinchey (Mr. Hinchey orally),
for the plaintiff.

Fisher, Parsons & Moran (Mr. Moran orally), for the defendant.

BLANDIN, J. The issue before the Trial Court was whether a binding agreement for settlement had been made between the parties. The record discloses that the defendant's attorney testified that an agreement had been reached, which opposing counsel and his client unequivocally denied. The defendant's attorney stresses the fact that he wrote plaintiff's counsel a letter "in confirmation"

of the alleged agreement, setting forth its terms, to which he received no written reply. While this evidence was entitled to consideration, it was by no means conclusive in the face of the record as a whole, especially in view of plaintiff's counsel's statement that "within two or three days" of the receipt of this letter he telephoned defendant's attorney and told him no agreement had been made. The sharp conflict in testimony was plainly for the Court to resolve. *Clover &c. Co. v. Smith Co.*, 96 N. H. 491, 493. Since the evidence supported the result reached the order is

Exception overruled.

WHEELER, J., did not sit; the others concurred.

Sullivan,
No. 4665.

STATE v. GLORIS R. LEMELIN.

Argued September 3, 1958.

Decided October 7, 1958.