

Because of the requirements of the Financial Responsibility Law, however, the plaintiff concededly is bound to furnish coverage within the statutory limit of \$5,000. RSA 268:19. *Merchants &c. Cas. Co. v. Tuttle*, 98 N. H. 349, 354; *Farm Bureau Ins. Co. v. Martin*, 97 N. H. 196, 202.

The issue of the insured's duty to reimburse the company is not determinable in these proceedings over the objection of the defendants, since no claim of a right to reimbursement can presently be made. *Continental Ins. Co. v. Charest*, 91 N. H. 378, 379. *Cf. Milwaukee Ins. Co. v. Morrill*, 100 N. H. 239, 243.

Judgment should be entered in favor of the defendants declaring that the plaintiff is obligated to indemnify the defendant Sterling against liability for personal injuries suffered by the defendant Sleeper within the statutory limit of \$5,000.

*Remanded.*

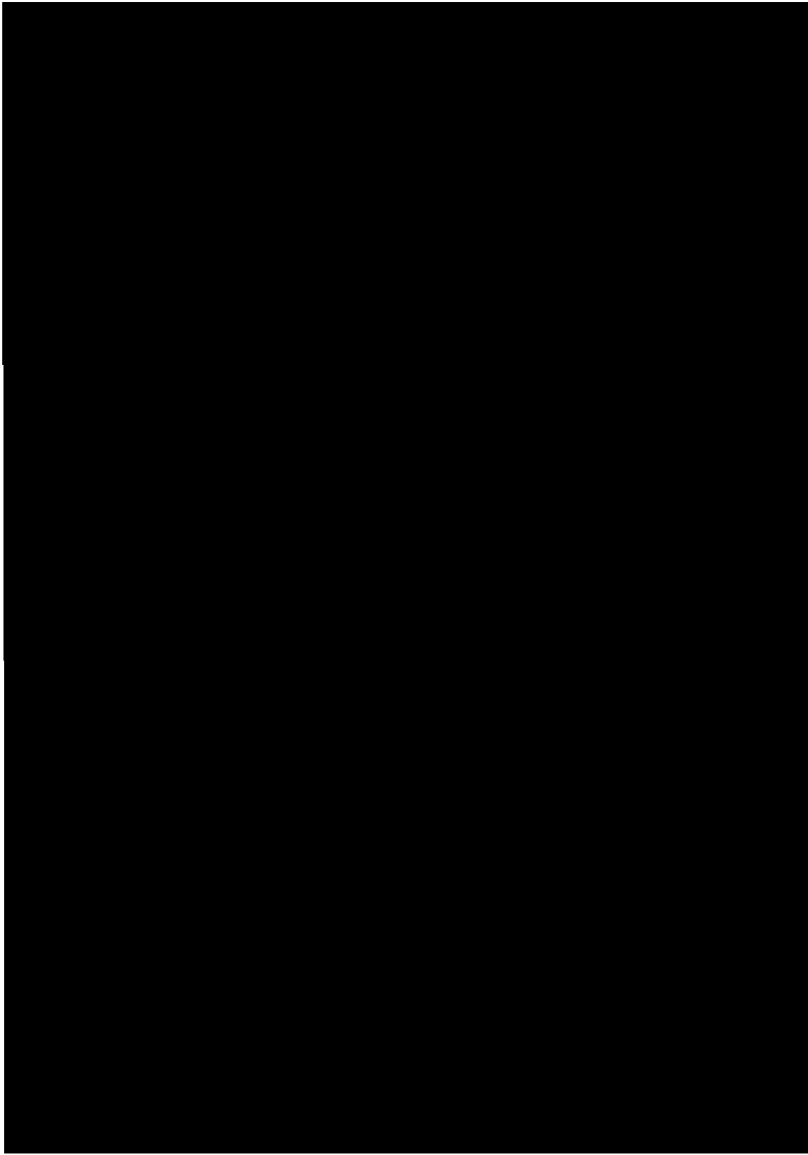
All concurred.

Cheshire,  
No. 4670.

MARY W. TRACY *v.* SURRY.

Argued November 5, 1958.

Decided November 28, 1958.



*Faulkner, Plaut & Hanna* (Mr. Hanna orally), for the plaintiff.

*Howard B. Lane* for the defendant.

*Homer S. Bradley* for the town of Surry, furnished no brief.

BLANDIN, J. Since there is no claim of fraud, the first issue which we shall consider is whether the commissioners made a "gross mistake" within the meaning of RSA 234:39 in their determination that a public need existed for the establishment of the road. *Underwood v. Bailey*, 59 N. H. 480; *Thompson v. Company*, 78 N. H. 433, 436. Without detailing the evidence, it appears there was testimony that the road would be of value in fire fighting, that it would be used by the selectmen in getting to the property for the purpose of assessing it, that the power company would use it in reaching their lines, and that persons wishing to get out timber on property remote from the road would also find it both convenient and necessary. There was substantial evidence that the proposed road was the only practical route to this section of the area. In addition to this, the selectmen and the county commissioners took a view which may have furnished a vital part of the evidence. *Gelinas v. Portsmouth*, 97 N. H. 248, 251, and cases cited. True, there was sharply conflicting testimony, but the contradictions and the weight of the evidence were for the "sole determination" of the commissioners in the absence of fraud or gross mistake. *Waisman v. Manchester*, 96 N. H. 50, 56.

To overturn the commissioners' findings, it is not enough that this court might have reached a different result. See *Sinkevich v. Nashua*, 97 N. H. 262, 265. Considering the record as a whole, we cannot say that the commissioners made a gross mistake in reaching the conclusion that a public need or occasion for the way existed. *Jones v. Mason*, 78 N. H. 148, 149. It follows the plaintiff's exception to the finding that there was occasion for laying

out the road is overruled. *Waisman v. Manchester, supra; Opinion of the Justices*, 98 N. H. 533.

In regard to the plaintiff's appeal on the issue of damages we are confronted with the familiar question of whether the finding was such as no reasonable person could make. In the light of the record as a whole, including the fact that the selectmen and county commissioners each took a view of the disputed premises, we cannot say that the finding was clearly unreasonable or that there was error in the Trial Court's acceptance of the report. It follows the order is

*Exceptions overruled.*

All concurred.

Rockingham,  
No. 4674.

ROCKINGHAM HOTEL COMPANY *v.* NORTH HAMPTON.

Argued November 6, 1958.

Decided November 28, 1958.