

Belknap
No. 6659

STATE OF NEW HAMPSHIRE

v.

ROBERT B. GREEN

May 30, 1975

Warren B. Rudman, attorney general, and *James L. Kruse*, attorney
(*Mr. Kruse orally*), for the State.

William P. Shea, by brief and orally, for the defendant.

MEMORANDUM OPINION

Defendant was found guilty of operating a motor vehicle while under the influence of intoxicating liquor. His exception to the refusal of the court to exclude the actual result of a blood test and limit the evidence to the fact that the test of his blood exceeded the amount required to establish a prima facie case was transferred by *Keller, C.J. RSA 262-A:63 (Supp. 1973)* states that the court may admit evidence of the amount of alcohol in defendant's blood and that evidence of ten hundredths percent "or more" is prima facie evidence of intoxication. We find no merit in the contention that the actual result of the blood test be excluded. Trial judges are capable of preventing any improper use of the evidence in argument or otherwise.

Exception overruled.

KENISON, C.J., did not sit.