

is not probable that when the legislature conferred upon municipal courts concurrent jurisdiction with the Superior Court in certain cases, it intended to hamper the trial of such cases in municipal courts by denying to these courts the power to obtain the testimony of non-resident witnesses.

Exception sustained.

All concurred.

Belknap, }
Jan. 4, 1938. }

JOSEPH CARROLL *v.* ERNEST B. DANE.

Alvin F. Wentworth, for the plaintiff.

Jewett & Jewett, for the defendant.

Per Curiam. The testimony of Rupert Bragg that he was driving the truck at the time of the accident, that the State hired it from

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Dane, and that he worked for Dane, would have warranted the jury in finding that the defendant owned the truck and that Bragg was driving it as his agent and on his business. The evidence that Bragg stopped the truck as Sanborn approached and that Sanborn attempted to pass, whereupon Bragg started again and skidded into the plaintiff's car, together with evidence that Bragg had skidded at the same place earlier the same day and knew the condition and tendency of the roadway, would have justified a finding of Bragg's negligence. The defendant's position that Bragg had no authority to bind the defendant by his testimony upon the issue of his agency is not tenable. *Riley v. Bank*, 86 N. H. 329, 331, and cases cited.

Judgment for the plaintiff.

[REDACTED]

Merrimack, }
Jan. 4, 1938. }

F. GORDON KIMBALL, *State Treasurer*

v.

JOHN B. POTTER, *Adm'r.*

[REDACTED]

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