

correctness, it was held, in a case in which an agent of defendants intentionally gave false information as to the standing of a merchant, with the design of benefiting himself and misleading plaintiff, that defendants were liable for the loss thereby sustained by plaintiff, the agent's action being within the scope of his authority. *City Nat. Bank v. Dun.*—*New York L.J.*, Sept. 20.

TELEPHONE CONVERSATION—EVIDENCE.—In *Oskamp v. Gadsden*, decided by the Supreme Court of Nebraska, June 11, 1892, the defendant called at the public telephone station at Schuyler, and asked the operator to request the plaintiffs to step to the telephone in their place of business in Omaha, as he desired to converse with them. H., one of the plaintiffs, answered the call, but owing to the conditions of the atmosphere the parties were unable to communicate directly with each other. The telephone operator at Fremont, an intermediate station, proposed to and did transmit defendant's message to plaintiffs, offering to sell them a quantity of hay, and he also repeated to them their answer, accepting the proposition. In an action for a breach of contract, it was held that the conversation was admissible in evidence, and that it was competent for the defendant to state the contents of plaintiffs' answer to his message, as repeated by the operator at Fremont at the time it came over the wire. The court said, *inter alia*: "The question thus presented is a new one to this court, and there are but few decided cases which aid us in our investigation. But upon principle it seems to us that the testimony is competent, and its admission violated no rule of evidence. It was admissible on the ground of agency. The operator at Fremont was the agent of defendant in communicating defendant's message to Haines, and she was also the latter's agent in transmitting or reporting his answer thereto to defendant. The books on evidence, as well as the adjudicated cases, lay down the rule that the statements of an agent within the line of his authority are admissible in evidence against his principal. Likewise, it has been held that where a conversation is carried on between persons of different nationalities through an interpreter, the statement made by the latter at the time the conversation occurred as to what was then said by the parties is competent evidence, and may be proven by calling persons who were present and heard it. This is too well settled to require the citation of authorities. There are certainly stronger reasons for holding the statement made by the operator and testified to by defendant admissible than in the case of an interpreter. Both Haines and defendant heard and understood the operator at Fremont, and knew what she was saying, or at least could have done so. Each knew whether his message was being correctly repeated to the other by the operator. Not so where persons converse through an interpreter. If the testimony objected to was incompetent and hearsay, then the testimony of Haines, relating to the same conversation, should, for the same reason, have been excluded. He did not hear what defendant said, but testified to what the operator reported as having been said. The operator at Fremont was not the agent of the defendant alone, but she was plaintiffs' agent in repeating their