

without the engine—the telegraph instrument like the engine without the boiler. United only do they perform any practical purpose. This being the admitted physical and mechanical relation they bear to each other, I think, that in the office of a telegraph company a sufficient number of instruments to effectively receive and dispatch the messages received and sent, form part of the realty of the company in the sense that such instruments are a necessary and essential part of the poles and wires themselves, neither being capable of use without the other. The same remarks apply to the switchboard. This is valuable by itself and is only useful when connected with the various lines of wire. Its construction enables a number of lines to be brought together and centred in a small space, and thus these lines from all points of the compass are rendered available for speedy and effective use by the operators employed at the various instruments.

The price and value of the instruments in use in the office of the appellants, which are the subject matter of this appeal, have been agreed upon between the parties, so that there is, therefore, no difficulty in adjusting the amount to be inserted in the assessment roll. I hold that both the switchboard and the instrument actually installed for daily use are liable to assessment as realty.

IN RE APPEALS OF TORONTO ELECTRIC LIGHT COMPANY AND CANADIAN
PACIFIC R. R. COMPANY.

Assessment—Costs—R.S.O. c. 224, ss. 79, 80, 84 (1), (5), (6).

Held, that on an appeal from a Court of Revision to a Board of three county judges the only costs that can be ordered to be paid to a successful appellant are witness fees on Division Court scale, and the per diem allowance to the two outside judges.

[TORONTO, NOV. 17—McDOUGALL, DARTNELL, McGEHEON, Co. JJ.]

The above companies were appellants from the decision of the Court of Revision confirming the assessment on certain properties in the City of Toronto. Having succeeded on their appeal before the Board of three county judges, provided for by s. 84 (1) of the Assessment Act, R.S.O., c. 224, the appellants applied for their costs, claiming the witness fees allowed by s. 80, as also the return of all the money deposited under s. 84 (5), for providing the expenses of the two judges from the outside counties.

H. O'Brien, for Toronto Electric Light Company, and *MacMurchy*, for Canadian Pacific R. R. Company. The only mode of enforcing an appeal to the Court of Appeal, from a decision of the Court of Revision, is by proceeding under s. 84 (1) before a Board of three judges. The words "and the sum so paid," in s. 84 (1), include both the travelling expenses payable to the judge, as well as the per diem allowance. The word "sum" refers to the aggregate of the disbursements mentioned in the previous part of the section; and, by the interpretation Act the word "sum" may be read in the plural, and that would be the reasonable reading, in view of the previous part of the section.

Fullerton, Q.C., and *H. L. Drayton*, contra. The words "and the sum so paid" are limited to the per diem allowance, and the travelling expenses are dealt with by the statute and directed to be paid out of the sum deposited by the appellants.