

plaintiff and defendants, without the knowledge of the plaintiff's solicitors, made an agreement for settlement of the action upon the plaintiff being taken into the defendants' employment and paid \$150 in full of damages and costs. The plaintiff's solicitors asserted a lien for their costs, which were unpaid, and gave notice thereof to the defendants before any money was actually paid over to the plaintiff.

Held, that the compromise made was not a collusive one, and the solicitors were therefore not entitled to an order upon the defendants for the payment of their costs; but, such costs amounting to more than \$150, that they were entitled to have that sum, for which the action was compromised, and which was to be treated as the fruits of the litigation, paid over to them in respect of their lien.

Held, also, that a question arising between the plaintiff and his solicitors, as to whether they were entitled to taxed costs as between solicitor and client, or to a percentage upon the amount recovered, could not be determined upon the motion to enforce payment by the defendants of the plaintiff's solicitor's costs, but had to be determined in another proceeding before the determination of such motion.

Shepley, Q.C., and J. H. Denton, for defendants. *Washington*, for plaintiff's solicitors.

ASSESSMENT CASES.

IN RE THE APPEAL OF THE C.P.R. TELEGRAPH CO.

Assessment—Switchboard and telegraph instruments—Constructive annexation to freehold—Fixtures.

Held, that the switchboard and telegraph instruments, with their attachments, connected with the appellants' poles and wires, and being in use in the business of a telegraph company, are assessable as realty.

[TORONTO, November 17—McDOUGALL, C.J.]

This was an appeal from the assessment of the switchboard and telegraph instruments and attachments of the C.P.R. Telegraph Co. at their head office in the City of Toronto.

It appeared that the wires of the company were conducted from their poles into the building used by them as their office. These different wires were connected with a switchboard, that is, the different wires from different parts of the outlying country were all conducted to a common centre and connected to an article known as a switchboard, by being attached to certain small metal posts or other device on this switchboard. The board itself was fastened in a wooden frame, which frame was screwed or fastened to the walls or floor of the office. The telegraph instruments, which were claimed as forming part of the realty of the appellants (i.e., the poles and wires), were located on tables, and were only used when connected with these poles or wires by another flexible wire, or pair of wires, the connection being made at the switchboard. One instrument could be connected with any line desired by moving and inserting in the proper receptacle, or the attaching point of the switchboard, the flexible wires attached to the instrument itself.