ing: "Will indorse your Smith & Whiting note — three months." Smith & Whiting took the note of W. H. Easton at three months in satisfaction of their claim, and sent it to J. T. Easton in New York for his indorsement, which was refused. Thereupon they sued him, and introduced the telegram that was received by W. H. Easton, upon which they had acted. The court held that the telegram received was not evidence of a liability upon J. T. Easton, but that the telegram written by J. T. should have been indorsed or accounted for. This certainly decides nothing to support complainant's contention here. On the contrary, the logic of it would seem to be adverse to the idea of agency in the company, for if the company was the agent of the sender when it delivered the telegram, the telegram as delivered was the act of the principal, and ought to bind him.

We have devoted more time and space to these cases than might appear to be necessary, but as they are summed up in the note referred to by Mr. Gray as the cases that are regarded as making what is called the rule in America, it was deemed not out of place to ascertain what they were. We make and have no criticism upon what these cases do decide; we merely say that they are not authority upon which to predicate the claim that the courts in this country have established or settled the question under consideration. As already stated, Mr. Gray not only shows that upon principle the English holding is the correct one, but while listing the cases above mentioned as indicating a contrary view, he states that most of them are *dicta*. There is but one case referred to by him and the industry and learning of counsel have produced no other— which directly adjudges that the sender of a telegram is bound to the receiver by the terms of the message as negligently altered by the company. That is the case of *Telegraph Co.* v. *Shotter*, 71 Ga. 760. With very great respect for the high character of that learned tribunal, we cannot approve the line of reasoning pursued, nor the conclusion therein reached. The facts of the case present the question exactly in the shape, and under the same circumstances, which we have in the case at bar. The learned judge delivering the opinion places his conclusion in part on the fact that in England the government has charge of the telegraph lines, and upon the idea that a merchant or business man would lose credit and commercial standing were he to refuse to make good to his correspondent the contract contained in his message as delivered. We cannot see how the fact of governmental charge of the telegraph system can make any difference, for in this country the sender is as impotent to control and direct the movements and conduct of the telegraph company as if it were under the government, while in no sense can the company be said to be a bailee or carrier of the particular message. Nor can we see how the commercial standing of the sender, who remits his correspondent to his recourse on the telegraph company for such injury as may result from the erroneous message, can be affected.

The Georgia case however, while holding that the sender was bound to let the receiver have the goods at the reduced price stated in the erroneous message, decides that the sender is not entitled to recover from the company, as damages, the difference between the price as written by the sender and that delivered by the company, upon the ground that there was no evidence that the purchasers at the points where the telegrams were received would have given the price at which the goods were offered in the correct telegrams, nor what was the market value of the goods at the place to which they had been shipped in consequence of the error, the court holding that the measure of damages in such case was "the difference between the price offered by the error of the telegram and the market value at the point to which shipped—that is, what the seller could have gotten there." This case therefore, though holding as stated concerning the idea of agency, is opposed to the conclusion of the chancellor in the case at bar on the measure of damages.

Being of opinion then that the complainants were not bound to let Bugg & Co. have the goods at the price erroneously communicated by the telegraph company, but that