

in that view, new and improved modes of conveyance by street railways are by law authorized to be constructed, and a franchise granted to a telephone company of constructing and operating its lines along and upon such streets is subordinate to the rights of the public in the streets for the purpose of travel and transportation. See *Cumberland Telephone, etc., Co. v. United Electric Ry. Co.*, 42 Fed. Rep. 273; 42 Alb. L.J. 88.

The fact that a telephone company acquired and entered upon the exercise of a franchise to erect and maintain its telephone poles and wires upon the streets of a city prior to the operation of an electric railway thereon will not give the telephone company, in the use of the streets, a right paramount to the easement of the public to adopt and use the best and most approved mode of travel thereon; and if the operation of the street railway by electricity as the motive power tends to disturb the working of the telephone system, the remedy of the telephone company will be to readjust its methods to meet the condition created by the introduction of electro-motive power upon the street railway.

Where a telephone company, under authority derived from the statute, places its poles and wires in the streets of a municipality, and, in order to make a complete electric circuit for the transmission of telephonic messages, uses the earth, or what is known as the "ground circuit," for a return current of electricity, and where an electric street railway, afterward constructed upon the same streets, is operated with the "single trolley overhead system," so called, of which the ground circuit is a constituent part, if the use of the ground circuit in the operation of the street railway interferes with telephone communication, the telephone company, as against the street railway, will not have a vested interest and exclusive right in and to the use of the ground circuit as a part of the telephone system.

VERMONT SUPREME COURT.

GIFFORD v. RUTLAND SAVINGS BANK.

Savings Bank—Payment to wrong person—Liability.

1. Though the by-laws of savings banks require that depositors shall subscribe their names in a book, and thereby be considered as assenting to all the by-laws, such assent may be implied,

and will be where a depositor living at a distance and receiving a deposit book by mail with the by-laws printed in it leaves the deposit and keeps the book for several years without going to the bank and leaving his signature.

2. The brother of a depositor in defendant bank, neither of whom was known to the bank officers, presented the deposit book for payment, representing himself as the owner; and, when asked how the deposit had been made, he correctly replied that it was by letter from a third person. In signing the name, he formed an initial so obscurely that it caused comment from the president. Notice of the loss of the book, required by the by-laws to be given defendant as a guard against wrong payment, and as a prerequisite for defendant's liability therefor, was not given.

Held, that defendant used reasonable care in making payment and was not liable.

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Latest additions:

- Bligh (H.), and Todd (W.), *Dominion Law Index*, Toronto, 1891.
Canada Gazettes, 1869-1886.
 Leith (Alex.), *Real Property Statutes*, Toronto, 1869.
Ontario Statutes, 1891 (2 copies).
 Sedgwick (Theo.), *The Measure of Damages*, 8th ed., 3 vols., New York, 1891.
 Sinclair (J.S.), *The Liquor License Act of Ontario*, Hamilton, 1891.
 Talbot (G.J.), and Fort, (H.), *Index of Cases Judicially Noticed, 1865-1890*, London, 1891.

Flotsam and Jetsam.

ASSISTING THE JURY.—"Gentlemen of the jury," said a Minnesota judge, "murder is where a man is murderously killed. 'murder is where a case is a murderer. Now, murder by poison is just as much murder as murder with a gun, pistol, or knife. It is the simple act of murdering that constitutes murder in the eye of the law. Don't let the idea of murder and manslaughter confound you. Murder is one thing, manslaughter is quite another."