

answer to defendant's message. That conversations held through the medium of telephone are admissible as evidence in proper cases cannot be doubted. Such have been the holdings of the courts in cases where the question has been before them. In a criminal case—*People v. Ward*, 3 N.Y. Crim. 483—it was held that where a witness testifies that he conversed with a particular person over the telephone, and recognized his voice, it was competent for him to state the communication which he made. In *Wolfe v. Railway Co.*, 97 Mo. 473, it was ruled that if the voice is not identified or recognized, but the conversation is held through a telephone kept in a business house or office, it is admissible, the effect or weight of such evidence, when admitted, to be determined by the jury. See *Printing Co. v. Stahl*, 23 Mo. App. 451. A case quite analogous to the one at bar is *Sullivan v. Kuykendall*, 82 Ky. 483. In that case the parties did not have conversation directly with each other over the telephone, but conversation was conducted by an operator in charge of a public telephone station at one end of the line. It was held that the conversation was admissible in evidence, and that it was competent for the person receiving the message to state what the operator at the time reported as being said by the sender. The court in the opinion say: 'When one is using the telephone, if he knows that he is talking to the operator, he also knows that he is making him an agent to repeat what he is saying to another party; and in such a case certainly the statements of the operator are competent, being the declarations of the agent, and made during the progress of the transaction. If he is ignorant whether he is talking to the person with whom he wishes to communicate or with the operator, or even any third party, yet he does it with the expectation and intention on his part that, in case he is not talking with the one for whom the information is intended, it will be communicated to that person; and he thereby makes the person receiving it his agent to communicate what he may have said. This should certainly be the rule as to an operator, because the person using a telephone knows that there is one at each station, whose business it is to so act; and we think that the necessities of a growing business require this rule, and that it is sanctioned by the known rules of evidence.' Our conclusion is that the court did not err in admitting the testimony of the defendant."

Proceedings of Law Societies.

LAW SOCIETY OF UPPER CANADA.

EASTER TERM, 1892.

Monday, 16th May, 1892.

Convocation met.

Present, 10 to 11 a.m.—The Treasurer, and Messrs. Proudfoot, Irving, Moss, Hoskin, Shepley, Meredith, Riddell, Christie, Osler, Robinson, Lash, Aylesworth, Martin, Britton. In addition, after 11 a.m. until adjournment, Messrs Barwick, Teetzel, Kerr, and Ritchie.