sible in fact by reason of the particular circumstances, and where this kind of impossibility is held to be no excuse for non-performance of the contract. Be that as it may, the practical physical impossibility of controlling, or even listening to, all the connections which are being carried on over these lines, affords a potent argument against the proposition that such was the intention of the parties, or that the plaintiffs would have imposed, and the defendants undertaken, such a duty. I apply in the same way the argument that the defendants had and have no right to refuse to supply the G. N. W. Telegraph Co., as part of the general public, with one of their instruments, or to invidiously control their use of it. There is high American authority for this proposition, and in matters of modern scientific development such as this, and especially in the comparative absence of English or American decisions, the opinions of able judges in the United States are entitled to great respect." "I hold that the defendants do not transmit or give messengers orders when they place a subscriber in communication with the G. N. W. Co. They afford him a medium by which he transmits or gives his own order, a case not provided for by the agreement. I dismiss the action with costs."

AN INSURANCE DIFFERENCE.

The suit at law between the Ontario Government and certain fire insurance companies with respect to the loss at the London Asylum for Insane, many months ago, is matter for regret. It argues stubborness somewhere, when equitable ground could not be found for a settlement in a matter of the kind rather than resort to law. This is a case, it seems to us, where the letter of a contract upholds one of the parties to it and the spirit of the contract upholds the other. We can hardly believe that, had the companies been approached in a friendly spirit for a settlement the claim would not have been paid. There is circumstantial evidence pointing to the conclusion that the portion of the premises burned was intended to be insured under the policy, but that portion was not specifically mentioned. To refuse payment, however, because of what may have been an oversight or a mis-description, was a matter of questionable liberality on the part of the underwriters, even if we admit them to be technically right.

To recapitulate the circumstances: Application for iusurance against fire upon its asylum property at London was made by the Government of Ontario u on a printed form, prepared by a government official, and naturally enough, supposed to be correct. The wording of the policy, besides covering other buildings, had the words: "London Asylum —on the main building," so much. The portions of the premises burned were the kitchen and laundry, which were lower structures about forty or fifty feet from the central high building known as the main building, and connected with it by a brick covered passage. The fire did not extend to the central building of the asylum. A claim was made by the Government upon the companies for loss on the kitchen and laundry, these being, it was contended, a part of the main building, and therefore covered by the policy. The companies refused to pay the loss on the ground that these structures were not a part of the main building of the asylum. We understand that in the policy covering the Hamilton Asylum the laundry and kitchen are insured separately from the main building, though somewhat similarly situated with regard to each other.

The London asylum case, we understand, was by the consent of both parties, submitted to Mr. Justice Galt without a jury. The best legal talent in the city was engaged on both sides, and after a patient hearing in eliciting all the important points on each side, the learned judge reserved judgment. At the request of the plaintiff's counsel, we understand, judgment will not be formally given until after term. It is an open secret, we believe, that the judgment will be in favor of the defendants with costs.

DECISIONS IN COMMERCIAL LAW.

STILLMAN v. THE AGRICULTURAL INSURANCE CO.—S. had two barns, Nos. 1 and 2. A threshing machine was insured as "in No. 1 barn." The machine, all except the horse power, which was outside, was in No. 2 barn. On application to the company an endorsement was made on the policy stating that the machine should be covered "while in any one of the outbuildings insured." Barn No. 2 was insured, though not by the Agricultural Insurance Company, and was burned down, consuming the threshing machine, whereon S. sued the defendant company to recover the loss on the machine. The company endeavored to set up as a defence the first statutory condition, in that the threshing machine, insured as S.'s own property, was partnership property; and also the fifteenth statutory condition, in that there was fraud and false statement, for the same reason, in the statement of loss. The Court of Common Pleas decided that the threshing machine was covered by the policy in the defendant company, and that S. could recover in respect of it. Also that the first statutory condition had no reference to title, and as to the fifteenth, the statement was not proved to be wilfully false and fraudulent, and the fact that the threshing machine was not partnership property was not material, no question as to title having been asked in the application for insurance, but since the policy limited the right of S. to recover, by its terms, to the extent of his own interest only, the damage must be reduced to the extent of that interest.

HAUERDORF v. STATE OF TEXAS.—H. was indicted and convicted for working on Sunday in violation of the statute forbidding any labor on Sunday. His offence was operating his ice factory on the first day of the week. It appeared on the trial that the closing of the factory from midnight on Saturday to midnight on Sunday would require on Monday the reduction of the temperature throughout the entire day (24 hours) before any ice could be drawn; and that then the first ice drawn from the moulds would be spongy and unsaleable. The machinery is very sensitive to the heat of the sun, and during the summer the temperature in the brine vats will rise from 16 to 20 degrees in a day, and it requires more time and labor to recover a degree above 10 degrees than below. Judge Hart in giving the judgment of the Texan Court of Appeals said: "It will not do to limit the word 'necessity' to those cases of danger to life, health, or property, which are beyond human foresight or control. On the contrary, the necessity may grow out of, or indeed be incident to, a particular trade or calling, and yet be a case of necessity within the meaning of the Act; for it is no part of the design of the Act to destroy or impose onerous restriction upon any lawful trade or business, and hence it has been held in a sister State, under a statute like our own, that it is lawful to keep a blast fireman at work on Sunday, because it is a work of necessity. It is evident that the work of the defendant here was a work of necessity and the conviction must be reversed."

THE STOCK MARKET.

With respect to its activity the Toronto Stock Exchange continues to compare most unfavorably with the corresponding dates of last year, the aggregate of transactions for the relative weeks being 3,574 shares as against 1,080 for the week just lapsed. The business was even smaller than last week when 1,369 shares were sold. Some relief is felt that the large number of transactions which had to be settled for on the opening of the books of the Banks on the first of the month, went through without any difficulty, but the "Bears" immediately commenced operations with a view of depressing the market, and succeeded in most cases. Bank shares, wherever changed, are lower than last week, Montreal falling ¾ and Commerce, Dominion and Standard ½ each.

Insurance shares were easier, British America being offered at 94, a decline of 2%, and Western offered at 1% lower. Canada North-West Land, the most active stock on the list, was firm with sales at 59 and 58¼. The only important change among Loan Society shares was an advance of 1½ in Canada Permanent to 201½ bid, with no sellers.

Money on call is plentiful at 4 to 5%, according to circumstances, but this seems to offer but little inducement to speculators, who mostly claim that no movement will take place in stocks till after the holidays.

"TRICKS OF INSURANCE."

Under the above caption the following extract, which is credited to the Buffalo *Courier*, is going the round of the daily press, and its unfair and sweeping conclusions are apt to be believed by many:—

"Nobody knows what an insurance policy means until he has been burned out. The proprietor of a Buffalo repair shop has been for years carrying a policy not only upon his goods, but also upon articles left with him for repairs. These latter were specially mentioned in the policy, which was a very broad instrument in its terms, and appeared to be 'horse high, bull strong, and pig tight' in its power to protect the man who paid for it. It called for a larger amount than he would have placed upon his own property alone, and he was in the habit of telling people who left their property with him that it was amply protected. He was burned out the other day, and when he came to settle with the insurance people they declined to recognize his claim in behalf of property left with him for repairs, unless he had in each instance specifically agreed with the owner that its loss by fire should be made good, and charged a consideration therefor. They took this position on the ground that he was not otherwise responsible for the property left in his shop. They asserted that a watchmaker, for instance, not responsible for watches left with him for repairs, unless he makes a special agreement to this effect with their owners and charges them for it. If this be true it is a good thing for people generally to know. In the case referred to the owner of the repair shop wonders what he has been paying for all these years."

Insurance companies sometimes do set up illiberal pleas, generally, however, when they suspect an insurer of trying to wrong them. Now, while there is some truth in the above statement, there is no ground for the vein of exaggeration pervading the article. If "nobody knows what an insurance policy means until he is burned out," whose fault is it? Every