

cost of the land, works, and improvements; and by s. 4, s-s. 3, the lands not taken within the 400 feet were to be specially assessed in respect of such improvements, but no such special assessment was to exceed the actual value of the benefit derived from the improvement.

R. and the H. T. owned lands extending from the centre line to a distance exceeding 400 feet, and the city took from such lands a strip narrower than 400 feet.

Held, that in awarding compensation to R. and the H. T., under the Municipal Act, for the parts of their lands taken, the arbitrators should allow for any benefits to the parts not taken, but in estimating that benefit they should take into account as best they could the fact that the land-owners were liable to be charged by the city to the extent of the benefit they received by a rate as for a local improvement under s. 4, s-s. 3.

Bain, Q.C., and *H. D. Gumble* for the land-owners.

W. A. Reeve, Q.C., and *C. R. W. Biggar* for the City of Toronto.

Chancery Division.

FALCONBRIDGE, J.] [December 4, '88.

THE ELECTRIC DESPATCH COMPANY OF
TORONTO v. THE BELL TELEPHONE
COMPANY OF CANADA.

*Telephone Company -- Messenger business --
Agreement as to transmission of orders for
messengers -- Other telephone subscribers
rights -- Construction of agreement.*

The defendants were a company carrying on a general telephone business with a central office to connect subscribers' telephones, and in addition, carried on a messenger business for the purpose of delivering letters, messages, etc. By an agreement, the defendants assigned their messenger business to the plaintiffs, and covenanted that they would not transmit or give any messenger order to any person except the plaintiffs, and that they would cease to do such business.

The Great North-Western Telegraph Co., one of the defendant's telephone subscribers) subsequently opened an office for a messenger business, and applied for a telephone in the

usual way, which the defendants supplied them with, and by means of it the G. N. W. T. Co. received orders for messengers, etc.

Held, that the defendants did not transmit or give messenger orders when they placed a subscriber in communication (through the central office) with the G. N. W. T. Co., that they only afforded him a medium by which to transmit, or give, his own order, which was a case not provided for by the agreement, and the action for an injunction to restrain defendants was dismissed with costs.

Robinson, Q.C., and *Reeve*, Q.C., for the plaintiffs.

Lush, Q.C., and *S. G. Wood*, for defendants.

BOYD, C.]

[May 28.

Re CENTRAL BANK, MORTON AND
BLOCK'S CLAIMS.

Banks and banking -- Definite receipts -- Negotiability -- Estoppel -- Bank Act -- R. S. O., c. 120, secs. 43, 65, 83.

Morton and Block filed claims with the liquidators of the Central Bank as *bona fide* purchasers for value and indorsees of deposit receipts of the bank, originally issued to Cox & Co., in the following form:

CENTRAL BANK OF CANADA,
Toronto, Oct. 18th, 1887.

\$6,000.

Received from Cox & Co. the sum of \$6,000 which the bank will repay to the said Cox & Co. or order, with interest at 4 per cent. per annum, on receiving 15 days notice. No interest will be allowed unless the money remains with this bank six months. This receipt to be given up to the bank when payment of either principal or interest is required.

For the Central Bank of Canada,

A. A. ALLEN, *Cashier*.

Ent., A. B. ORD, *Acc't.*

Held, that even if such a receipt did not possess all the incidents of a promissory note yet it was meant to be transferred by endorsement, being made payable to the order of Cox & Co.; and it was therefore governed by a line of authorities, which showed that it was so far negotiable (whether possessing all the incidents of commercial paper or not) so as to pass a good title to a *bona fide* purchaser for value, who took without notice of any infirmity of title.

But *semble*, that these deposit receipts as drawn were negotiable instruments under which