the subject of telephonic conversation had been considered, and quoted with approval from the opinion in the Kentucky case: "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 declaration of the agent, and made during the progress of the transaction."

*Gifts Causa Mortis — Evidence — Constructive Delivery — Bank Pass Book.— Thomas' administrator* v. *Lewis*, 15 S. E. Rep. 389 (Va.). This was an action brought to establish a gift *causa mortis* of an entire personal estate consisting of money and choses in action, valued at $200,000. The alleged donor had died at the age of seventy, unmarried and intestate. The claimant was his illegitimate daughter by a former slave. It appeared that the deceased had educated his daughter liberally, had built a dwelling house for her and her husband, and was residing with them at the time of his death. He had frequently declared that his collateral relations should not share in his estate, and that his daughter should have it all. The only person who testified to the fact of the gift was the daughter's household companion. The Supreme Court held, one judge dissenting, that the gift was valid, excepting a pass-book showing the amount of donor's deposits in a national bank. The judge that wrote the opinion took strong ground for the validity of this gift also. The opinion is an elaborate discussion of the subject of gifts *causa mortis*, and contains a valuable collection of citations. The court says: "The circumstance that there is but one direct witness to the gift, competent to testify (the appellant declining to allow the donee as a witness when offered) does not affect the validity of the gift. One witness, if credible, is sufficient. The law does not require more than one; and especially, as in this case, when that one is not only unimpeached, but corroborated." *Hatch* v. *Atkinson*, 56 Me. 324, is in point. Declarations as to the circumstances of the gift, made the day after by the donee and her companion are competent evidence, both as part of the *res gestæ*, and to rebut inferences sought to be drawn from an adverse witness as to the donee's silence in regard to the matter two days later. "Nor does the magnitude of the gift affect its validity. It may extend to the whole of the donor's personal estate." The common law, unlike the Roman, does not limit the amount of personal estate subject to gifts *causa mortis*. Delivery is held to be essential, but construc-

tive delivery is always sufficient when actual manual delivery is either impracticable or inconvenient. So the gift in this case of the keys of a box containing bonds and other securities, deposited in the vaults of a bank was decided valid. It would be interesting to know the reasons of the majority of the judges for holding invalid the gift of a pass-book lately written up showing the deposits of the donor in the same bank.

*Landlord's Liability to Guest of Tenant for Defective Premises.*—*Hart* v. *Cole*, 31 N. E. Rep. 644 (Mass.). The plaintiff while leaving a wake held in the part of a tenement house occupied by a tenant of defendant, by the outside steps, was injured by a defect in the stairway, negligently allowed by defendant to remain, and now sues for damages. Plaintiff had not been invited to the wake, nor was she a friend or relative of the deceased. Knowlton J., says: "This case presents for consideration important questions never before decided in this commonwealth. The defendant in this case would be liable to a visitor of the tenant for the steps, if the tenant himself would have been so liable had he owned them. It has been held (*Plummer* v. *Dill*, 31 N. E. Rep. 128) that a person visiting premises fitted up for business purposes, on business of his own not connected with the business actually or apparently carried on there, is a mere licensee to whom the owner is liable only for traps and injurious acts negligently done to his prejudice. The same is true as regards one visiting a dwelling house without express invitation, and solely for his own convenience or profit. "How far an implied invitation is held out under all conceivable circumstances, and whether an implied invitation to come as a guest for friendly intercourse can create a liability greater than that to an ordinary licensee, it is not easy to decide." In *Southcote* v. *Stanley*, 1 Hurl. and N. 246, it was held, and *Inderman* v. *Dawes*, L. R. 1 C. P. 274, agrees, that a visitor gratuitously enjoying hospitality on the express invitation of an owner of a dwelling house was a mere licensee. "He accepts the invitation with an understanding that he is to enjoy only such things as his host possesses." A guest must take the premises as he finds them, with any risk as to their disrepair, although the host is bound to warn him of any concealed danger of which he may be aware. In this case there was no express invitation to plaintiff, and, though there may be an implied one to relatives and friends, yet strangers (there being no proof to the contrary) must be regarded as mere licensees, present for their own curiosity or convenience, and the defendant is not liable to them.