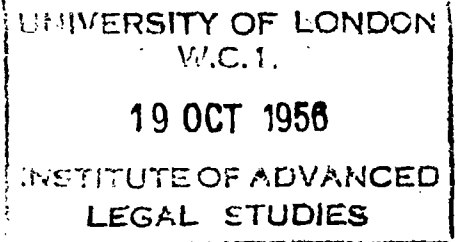


44591



In the Privy Council.

No. 23 of 1904.

ON APPEAL
FROM THE COURT OF APPEAL FOR ONTARIO.

BETWEEN

THE CORPORATION OF THE CITY OF TORONTO, - *Appellants,*

AND

THE BELL TELEPHONE COMPANY OF CANADA, - *Respondents,*

JOINT APPENDIX OF DOCUMENTS.

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JOINT APPENDIX OF STATUTES RELATING TO THE RESPONDENTS.

No. 1.

43 VICTORIA, CHAPTER 67 (CANADA),

(OMITTING SECTIONS 5-23 INCLUSIVE.)

AN ACT

TO INCORPORATE

THE BELL TELEPHONE COMPANY OF CANADA.

(Assented to 29th April, 1880.)

10 **W**HEREAS Alexander Melville Bell, Richard Alan Lucas, Henry S. Strathy, John Billings, Hugh C. Baker, Frederick W. Gates, Lawrence Buchan, William R. Meredith, Thomas Davidson and H. Gordon Strathy, have by their petition prayed to be incorporated under the name of "The Bell Telephone Company of Canada," with the powers hereinafter set forth, and it is expedient to grant the prayer of the said petition, and that the said persons and others who may be associated with them, should be incorporated for the purposes of this Act; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

20 1. Alexander Melville Bell, Richard Alan Lucas, Henry S. Strathy, Hugh C. Baker, Lawrence Buchan, William R. Meredith and Thomas Davidson, and such other persons as may become shareholders in the corporation to be by this Act created, shall be and they are hereby created, constituted and declared to be a corporation, body politic and corporate, by the name of "The Bell Telephone Company of Canada," and the head office of the said Company shall be at the City of Toronto, in the Province of Ontario, or at such other place in Canada as may be hereafter determined upon by the Directors of the Company.

Preamble.

Certain persons incorporated.

Corporate name and head office.

Powers of the
Company.

2. The said Company shall have power to manufacture telephones and other apparatus connected therewith, and their appurtenances and other instruments used in connection with the business of a telegraph or telephone company, and to purchase, sell or lease the same and rights relating thereto, and to build, establish, construct, purchase, acquire or lease, and maintain and operate, or sell or let any line or lines for the transmission of messages by telephone, in Canada or elsewhere, and to make connection for the purposes of telephone business with the line or lines of any telegraph or telephone company in Canada or elsewhere, and to aid or advance money to build or work any such line to be used for 10 telephone purposes; and also to borrow such sum of money not exceeding the amount of the paid-up capital of the Company as the Directors shall deem necessary for carrying out any of the objects or purposes of this Act, and to issue bonds therefor in sums of not less than one hundred dollars each, which shall be a first charge upon the whole lines, works and plant of the Company, in such sums and at such rate of interest, and payable at such times and places, as the Directors shall determine; Pro-
 visio. vided, always, that nothing in this Act shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money.

20

Borrowing
powers.

Construction
and mainten-
ance of line.

Proviso:
height of
poles, etc.

3. The said Company may construct, erect and maintain its line or lines of telephone along the sides of and across or under any public high-ways, streets, bridges, watercourses or other such places, or across or under any navigable waters, either wholly in Canada or dividing Canada from any other country, provided the said Company shall not interfere with the public right of travelling on or using such highways, streets, bridges, watercourses or navigable waters; and provided, that in cities, towns and incorporated villages the Company shall not erect any pole higher than forty feet above the surface of the street, nor affix any wire less than twenty-two feet above the surface of the street, nor carry more 30 than one line of poles along any street without the consent of the Municipal Council having jurisdiction over the streets of the said city, town or village, and that in any city, town or incorporated village, the poles shall be as nearly as possible straight and perpendicular and shall, in cities, be painted if so required by any by-law of the Council; and provided further, that where lines of telegraph are already constructed, no poles shall be erected by the Company in any city, town or incorporated village along the same side of the street where such poles are already

amdt 52
the erection of the poles and wires and

erected, unless with the consent of the Council having jurisdiction over the streets of such city, town or incorporated village; provided also, that in so doing the said Company shall not cut down or mutilate any tree, and provided that in cities, towns ^{and} or incorporated villages, the opening up of the street for the erection of poles or for carrying the wires under ground shall be done under the direction and supervision of the Engineer or such other officer as the Council may appoint, and in such manner as the Council may direct, and that the surface of the street shall, in all cases, be restored to its former condition by and at the expense of the

Proviso:
as to trees.

and

10 Company: Provided also, that no Act of Parliament requiring the Company (in case efficient means are devised for carrying telephone wires under ground) to adopt such means, and abrogating the right given by this section, to continue carrying lines on poles through cities, towns or incorporated villages, shall be deemed an infringement of the privileges granted by this Act; and provided further that whenever in case of fire it becomes necessary for its extinction or the preservation of property that the telephone wires should be cut, the cutting, under such circumstances of any of the wires of the Company, under the direction of the chief engineer or other officer in charge of the fire brigade, shall not
20 entitle the Company to demand or claim compensation for any damages that might be so incurred.

Proviso:
as to future legislation.

Proviso:
as to cutting wires in case of fire.

4. The said Company shall have power and authority to purchase or lease for any term of years any telephone line established or to be established, either in Canada or elsewhere, connecting or hereafter to be connected with the lines which the Company is authorized to construct, or to purchase or lease for any term of years the right of any company to construct any such telephone line; and shall also have power and authority to amalgamate with or to lease their line, or any portion or portions thereof, from time to time, to any company or person possessing as proprietor any line of telegraphic or telephonic communication connecting or to be connected with the Company's line, in Canada; and the Company shall also have power to enter into any arrangements with any person or company possessing, as proprietor, any line of telegraphic or telephonic communication, or any power or right to use communication by means of the telephone upon such terms and in such manner as the Board of Directors may from time to time, deem expedient or advisable, or to become a shareholder in any such corporation.

Power to purchase lines.

30

And to make arrangements with other companies.

Legal
domicile.

24. The Company shall, at all times, have an office in the city or town in which their chief place of business shall be, which shall be the legal domicile of the Company in Canada, and notice of the situation of that office and of any change therein shall be advertised in the "Canada Gazette"; and they may establish such other offices and agencies elsewhere in the Dominion of Canada as they may deem expedient.

Injury of pro-
perty, &c., to
be a misde-
meanor.

25. Any person who shall wilfully or maliciously injure, molest or destroy any of the lines, posts or other material ~~or~~ property of the Company, or in any way wilfully obstruct or interfere with the working of the said telephone lines, or intercept any message transmitted thereon, shall 10 be guilty of a misdemeanor.

Powers as to
real estate.

26. The said Company shall have power to purchase, lease or otherwise acquire and hold all such real estate as may, from time to time, be deemed requisite for the purposes of the Company, and also to sell, lease or otherwise dispose of, and to mortgage, pledge or incumber such real estate or any part or parts thereof, from time to time, in such manner and on such terms as they may deem fit.

Certain rights
saved.

27. Nothing herein contained shall prejudice or affect any agreement heretofore entered into by Alexander Melville Bell with any person or persons or corporation with reference to the Bell Telephone.

No. 2

45 VICTORIA, CHAPTER 95 (CANADA).

AN ACT

TO AMEND THE ACT INCORPORATING

THE BELL TELEPHONE COMPANY OF CANADA.

(Assented to 17th May, 1882.)

WHEREAS the Bell Telephone Company of Canada hath, by its petition, prayed for certain amendments to its Act of incorporation, as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The second section of the said Act passed in the forty-third year of Her Majesty's Reign and intituled "An Act to Incorporate the Bell Telephone Company of Canada," is hereby repealed and the following substituted therefor:—

"2. The said Company shall have power to manufacture telephones and other apparatus connected therewith, and their appurtenances and other instruments, used in connection with the business of a telegraph or telephone company, and also such other electrical instruments and plant as the said Company may deem advisable, and to purchase, sell or lease the same and rights relating thereto, and to build, establish, construct, purchase, acquire or lease, and maintain and operate, or sell or let any line or lines for the transmission of messages by telephone, in Canada or elsewhere, and to make connection, for the purpose of telephone business, with the line or lines of any telegraph or telephone company in Canada or elsewhere, and to aid or advance money to build or work any such line to be used for telephone purposes; and also to borrow such sum of money not exceeding the amount of the paid up capital of the Company as the Directors shall deem necessary for carrying out any of the objects

Preamble,

48 V., c. 67.
Section 2 of
Act amended.Powers of the
Company for
manufacture
of instru-
ments.Constructing
lines of trans-
mission by
telephone.Borrowing
powers and
bonds.

or purposes of this Act, and to issue bonds therefor in sums of not less than one hundred dollars each, which shall be a first charge upon the whole lines, works and plant of the Company, in such sums and at such rate of interest, and payable at such times and places, as the Directors shall determine : Provided always, that nothing in this Act shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money."

Proviso :

Sect. 8 of 48
V., c. 67
amended.

2. The third section of the said Act of incorporation is hereby amended, by inserting in the twenty-eighth line thereof, after the word "villages," the words "the location of the line or lines and."

10

Lines may be
extended.

for France?

3. The said Company shall have power, subject to existing rights, to extend its telephone lines from any one to any other of the several Provinces in the Dominion of Canada, and from any point in Canada to any point in the United States of America.

Declaratory
clause.

4. The said Act of incorporation as hereby amended, and the works thereunder authorized, are hereby declared to be for the general advantage of Canada.

No. 3

45 VICTORIA, CHAPTER 71 (ONTARIO).

AN ACT

TO CONFER CERTAIN POWERS UPON

THE BELL TELEPHONE COMPANY OF CANADA.

(Assented to 10th March, 1882.)

*see the water petition
act as to the authority
S. B. G. 1882*

WHEREAS the Bell Telephone Company of Canada, has, by its petition, represented that it was incorporated by an Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's Reign, chapter sixty-seven, and certain powers were conferred on the said corporation by the said Act; that under the authority thereof it has acquired the rights, business, and good will of divers local telephone companies in this Province, and has constructed and erected and is now working telephone lines, and carrying on telephone operations in divers cities, towns and villages and other places in this Province; and that doubts have arisen as to the powers of the said Company under the said Act, in regard to those portions of its work and undertaking which are local and do not extend beyond the limits of this Province; and the said Company has prayed that the necessary powers be conferred on it by the Legislature of this Province; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall be lawful for the company incorporated by chapter sixty-seven of the Statutes of Canada, passed in the forty-third year of Her Majesty's Reign, known by the name of "The Bell Telephone Company of Canada," to exercise within the Province of Ontario the powers hereinafter mentioned.

Company authorized to exercise powers hereinafter mentioned.

Construction
and mainten-
ance of line.

Proviso :

Height of
poles, &c.

Proviso :

Proviso :

Proviso :

Proviso :

Proviso :

Power to
acquire real
estate.

2. The Bell Telephone Company of Canada may construct, erect and maintain its line or lines of telephone along the sides of, and across or under, any public highways, streets, bridges, ~~or~~ water-courses or other such places ; provided the said Company shall not interfere with the public right of travelling on or using such highways, streets, bridges or water-courses, and provided that in cities, towns and incorporated villages, the company shall not erect any pole higher than forty feet above the surface of the street, nor affix any wire less than twenty-two feet above the surface of the street nor carry any such poles or wires along any street without the consent of the municipal council having jurisdiction over the streets of the said city, town or incorporated village ; and that in any city, town or incorporated village, the poles shall be as nearly as possible straight and perpendicular, and shall in cities be painted if so required by any by-laws of the council ; and provided further that where lines of telegraph are already constructed, no poles shall be erected by the Company in any city, town or incorporated village along the street where such poles are already erected, unless with the consent of the council having jurisdiction over the streets of such city, town or incorporated village : Provided also that in so doing the said company shall not cut down or mutilate any tree ; and provided that in cities, towns and incorporated villages the opening up of the street for the erection of poles, or for carrying the wires under ground shall be done under the direction and supervision of the engineer or such other officer as the Council may appoint, and in such manner as the Council may direct, unless such engineer, officer or Council, after one week's notice in writing, shall have omitted to make such direction ; and provided also that the surface of the street shall, in all cases, be restored to its former condition by and at the expense of the Company ; and provided further, that whenever in case of fire it becomes necessary for its extinction or the preservation of property that the telephone wires should be cut, the cutting under such circumstances of any of the wires of the Company, under the direction of the chief engineer or other officer in charge of the fire brigade, shall not entitle the Company to demand or claim compensation for any damages that might be so incurred.

3. The said Company shall have power to purchase, lease or otherwise acquire and hold all such real estate as may from time to time be necessary and proper for the purposes and uses of the Company, and also to sell, lease or otherwise dispose of, and to mortgage, pledge or

incumber such real estate, or any part or parts thereof, from time to time, in such manner and on such terms as they may deem fit; Provided ^{Proviso:} always that such real estate acquired for the purposes hereinbefore mentioned shall at all times be held exclusively for the purposes and uses of the said company as by this Act authorized, and not otherwise, and shall not exceed at any one time, when situate within the City of Toronto, the annual value of ten thousand dollars, when situate within any other city in the Province of Ontario, the annual value of five thousand dollars, when situate within any town in the Province of Ontario, the annual
10 value of two thousand dollars, and when situate within any other municipality within the said Province of Ontario, the annual value of one thousand dollars.

IN THE PRIVY COUNCIL.

No. 23 of 1904.

ON APPEAL
FROM THE COURT OF APPEAL FOR ONTARIO.

BETWEEN

THE CORPORATION OF THE CITY OF TORONTO,
Appellants

AND

THE BELL TELEPHONE COMPANY OF CANADA,
Respondents

JOINT APPENDIX.

FRESHFIELDS,
New Bank Buildings, 31 Old Jewry,
Solicitors for Appellants.

BLAKE & REDDEN,
17 Victoria Street,
Solicitors for Respondents.