

passing of the Dominion Act no order was necessary to authorize their subsequent maintenance and use, but if not, then leave was required under ss. 235 and 237. Quare, if part only of the work was done before the Act and part afterward. Assuming that the work was lawfully done before the passing of the Dominion Act the Board has power under s. 238 to require the company to execute such works or take such measures as appeared to the Board best adapted to remove or diminish the danger. An agreement having been made with the approval of the Board for the use by Naylor of the company's poles for carrying his wires, order accordingly, the company being ordered to pay the costs of the proceedings. *Naylor v. Windsor, Essex & Lake Shore Rapid Ry. Co.*, 8 Can. Ry. Cas. 14.

TELEPHONE WIRES CROSSING ELECTRIC RAILWAY; PROTECTIVE WORKS; JUNIOR AND SENIOR COMPANY.

The Board has no jurisdiction under ss. 237 and 238 of the Railway Act to order the junior company at a crossing, where the wires of a telephone company are carried over an electric railway, to bear the cost of certain changes in the construction of the lines of the senior company and of certain protective appliances rendered necessary by reason of the construction and operation of the railway of the junior company, where such alterations were made by the senior company without having previously obtained an order from the Board for the making of the same. *Bell Telephone Co. v. Windsor, Essex & Lake Shore Rapid Ry. Co.*, 8 Can. Ry. Cas. 20.

WIRES BENEATH TRACKS; QUESTION OF LAW; LEAVE TO APPEAL; RAILWAY ACT, S. 246.

On an application for leave to appeal to the Supreme Court from an order of the Board permitting the Montreal Light, Heat and Power Co. to erect, place and maintain its wires beneath the tracks of the Montreal Terminal Ry. Co.—Held, that, as only a question of jurisdiction and not of law was involved, the application must be refused. *Montreal Terminal Ry. Co. v. Montreal Light, Heat & Power Co.*, 10 Can. Ry. Cas. 133.

TELEPHONE WIRES; LEAVE TO CROSS; PROTECTIVE MEASURES.

Application by the Bell Telephone Company, under s. 246 of the Railway Act, and s. 5 of 7-8 Edw. VII. c. 61, for an order restraining the Nipissing Power Company, of Toronto, Ontario, from crossing the wires

of the applicant between Powassan and North Bay along the highway, known as the Nipissing road, with their high tension wires, until permission of the Board shall have been obtained:—Held, (1) that the order should be granted; the provision for protective measures being in the public interest. (2) That under s. 246 of the Railway Act, power companies are required to obtain leave from the Board, before crossing railways with their wires, in order that the wires may be properly guarded. (3) That under the broad provisions of s. 5, of the Amending Act, 7-8 Edw. VII. c. 61, it is reasonable that the provisions of s. 246 should apply to a telephone system, as well as to a railway line. (4) When a provincial company desires to cross with its line, the line of a Federal company, subject to the jurisdiction of the Board, it must obtain leave from the Board before it will be allowed to do so. *Bell Telephone Co. v. Nipissing Power Co.*, 9 Can. Ry. Cas. 473.

TELEPHONE WIRES; INSTALLATION IN SUBWAY; GRADE SEPARATION AT RAILWAY CROSSING.

Where a grade separation has been ordered and a city street is lowered in the public interest, so as to go under the railway line by subway, a telephone company having overhead wires on the street is not entitled to receive compensation from the railway or the municipality for the expense of moving and re-locating the telephone line. *Bell Telephone Co. v. Canadian Pacific Ry. Co., Grand Trunk Ry. Co. and City of Toronto (Brock Avenue Subway Case)*, 14 Can. Ry. Cas. 14, 5 D.L.R. 397.

ELECTRIC LIGHT AND TELEPHONE WIRES; INSTALLATION IN SUBWAY.

Where grade separation has been ordered and city streets are lowered, in the public interest, so as to go under the railway lines by subways, Public Utility Companies having telephone and electric light overhead wires on the streets should bear the entire expense of putting these wires underground except their long distance telephone wires which may be carried overhead. *Bell Telephone Co. v. Grand Trunk, Canadian Pacific Ry. Cos. and City of Toronto (Brock Avenue Subway Case)*, 14 Can. Ry. Cas. 14, 5 D.L.R. 297, followed. *Toronto Electric, etc. v. Can. Pac. et al. (North Toronto Grade Separation Case)*, 15 Can. Ry. Cas. 309.

ELECTRICITY; TESTS AND INSPECTION.

An electric power company stringing its