TELEPHONE COMPANIES AND THE ACT OF 1866.

A telephone company is not a telegraph company and cannot assert a right to the privileges accorded telegraph companies by the Act of Congress of 1866. This is, in effect, the view of the matter taken by the Federal Court of last resort in the case of The Southern Bell Telephone and Telegraph Company v. The City of Richmond, decided this week. The Act of 1866, as amended by subsequent legislation, provided that any telegraph company organized at the time, or which might thereafter be authorized, under the laws of any state, should have the right to construct, maintain and operate lines of telegraph through and over any part of the public domain of the United States, over and along any of the military or post roads of the United States, which had been or thereafter might be declared such by law, and over, under or across the navigable streams or waters of the United States, but that such lines of telegraph should be so constructed and maintained as not to obstruct the navigation of such streams or waters or interfere with the ordinary travel on such military or post roads. Acting, apparently, on the theory that it was entitled to the privileges secured to telegraph companies under this Act, the telephone company, a corporation organized under the laws of the State of New York, and authorized to do telegraph as well as telephone business, erected poles in the streets and alleys of the city of Richmond without obtaining the consent of the municipal authorities. A controversy arose between the company and the municipal council, and the latter body ordered the poles to be removed. The company brought suit in the Federal Courts to restrain the city from taking down the poles. At first in the Circuit Court and later in the Circuit Court of Appeals, judgment was given in favor of the telephone company, which held that under the law of 1866 the company had the right to erect its poles and that the local authorities could not interfere with them.

As will be seen, a different result was reached when the case came up to the court of last resort. That court held that the provisions of the Act of 1866 could not be construed as extending to telephone companies. . . . . .
The company's charter, it is true, allowed it to do a telegraph business, but the proof showed that it confined its business to the telephone alone, and, that being the case, the Act of 1866 could have no application to it. If, the opinion continued, Congress should desire to extend the provisions of the Act of 1866 to telephone companies, it should do so in plain words, and it would be time enough when such legislation was enacted to consider any question of constitutional law that might be suggested by it. This decision of the Supreme Court renders it clear that actual legislation will be needed to bring telephone companies within the privileges of the Act 1866.—Bradstreets.