

and located within the limits of the townships of Erin, East Garafraxa, Eramosa, and the village of Erin, for \$34,064.47.

The Caledon by-law recited that the Caledon township council on the 1st August, 1919, by by-law No. 770, provided for the establishment of a telephone system; that the council on the 14th November, 1919, by resolution, accepted the offer of the Consolidated Telephone Company for the sale of that part of its system in the townships of Caledon, Albion, and Mono for \$39,355.08; and that a bill of sale thereof had been prepared. After these recitals, the by-law enacted that the terms and conditions of the bill of sale "are hereby approved and confirmed," and authorised the due execution of the bill of sale by the township authorities on behalf of the corporation and the carrying out of the terms of the bill of sale, including payment of the price. The bill of sale comprised the "plant, equipment, and system" of the company.

A bill of sale, similar in form to that made to the Caledon Corporation was made to the Erin Corporation on the 15th December, 1919.

No formal agreement was entered into in either case.

The grounds urged upon the argument of the appeal were: (1) that the appellant company should have been afforded an opportunity of being heard before the Board dealt with the report of its Chairman; (2) that the refusal of the Board to give its approval was wrong, and this was a question of law as to which there was a right to appeal to this Court.

The Ontario Telephone Act, 1918, 8 Geo. V. ch. 31, contains no express provision as to appeal, but sec. 106 makes applicable the provisions of the Ontario Railway and Municipal Board Act as to the jurisdiction, powers, and practice and procedure of the Board; and sec. 48 of the latter Act, R.S.C. 1914 ch. 186, provides that an appeal to a Divisional Court, by leave, upon a question of jurisdiction or upon any question of law, shall lie.

The section of the Telephone Act applicable is sec. 24, authorising the purchase by a municipality of an existing system; sec. 25 does not apply.

Section 87 requires the approval of the Board to the sale or transfer by a company of its system; and that approval had not been obtained. Before any agreement of sale or purchase could become operative, the approval of the Board was essential.

In exercising the power conferred by secs. 24 and 87, the Board does not act judicially, but as the delegate of the Legislature. A purchase of the company's system or part of it would have the effect of transferring the franchise, and without legis-