

No. 79

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 79

A Bill to Establish the Alberta Government Telephones
Commission

HON. MR. TAYLOR

Explanatory Note

General. By this Bill it is proposed to establish the Alberta Government Telephones System as a Crown corporation. The telephone system is presently operated under the authority of The Telephone and Telegraph Act, chapter 332 of The Revised Statutes of Alberta, 1955. Under this Act the Minister of Telephones is authorized to establish and operate a telephone and telegraph system. In its present form the system is merely the Minister of Telephones operating through servants and agents, although, in many respects, the system is considered and treated as a separate entity. This Bill creates an Alberta Government Telephones Commission, with the Minister as chairman, to hold and administer the telephone and telegraph system. The references in the explanatory notes are to the present Act, The Telephone and Telegraph Act.

2. Definition of terms used.

3. (1) Commission established.

(2) The commission is a corporation.

BILL

No. 79 of 1958

An Act to Establish the Alberta Government Telephones
Commission

(Assented to _____, 1958)

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

1. This Act may be cited as "*The Alberta Government
Telephones Act*".

Interpretation

2. In this Act,

- (a) "commission" means The Alberta Government
Telephones Commission established pursuant to
section 3 of this Act;
- (b) "Minister" means the Minister of Telephones;
- (c) "system" means a telegraph or telephone system
or both and includes all land, plant, supplies, build-
ings, works, rights, franchises, easements, assets
and property of every kind owned, held, required
or used for the purpose of, or in connection with,
or for the operation thereof;
- (d) "telegraph" includes telegraph by wire or radio
transmission;
- (e) "telephone" includes telephone by wire or radio
transmission.

The Commission

3. (1) There is hereby established a commission under
the name of The Alberta Government Telephones Com-
mission consisting of the Minister and the executive of-
ficers from time to time appointed pursuant to section 5.

(2) The commission shall be a body corporate having
capacity to contract and to sue and be sued in the name of

(3) Alternative name.

4. (1) Scope of the commission's activities defined. Similiar to section 3, subsection (1) of the present Act but in greater detail.

(2) Because the commission will have a separate identity from the Minister, this subsection gives it express authority to carry out certain functions that it presently is doing or may do on behalf of the Minister.

5. (1) Chief executive officers appointed by the Lieutenant Governor in Council. These officials together with the Minister constitute the membership of the commission. See clause 1.

(2) Salaries of executive officers to be fixed by Lieutenant Governor in Council.

6. (1) Minister of Telephones is chairman of commission.

(2) Regular monthly meetings of commission required.

(3) Five members form a quorum.

(4) General manager to be acting chairman in absence of Minister.

7. (1) Lieutenant Governor in Council given a power to make regulations governing the operations of the commission.

the commission and to acquire, hold and alienate real property.

(3) The commission may also be known as the "Alberta Government Telephones".

4. (1) The commission may purchase, construct, extend, maintain, operate and lease to and from other persons, a system or systems in the Province, including private communication systems.

(2) The Lieutenant Governor in Council may refer or assign to the commission

- (a) the administration of any other Act, and
- (b) the performance of any duty or task, including the performance of any contract entered into by the Province for the establishment, maintenance or operation of a system in any other province or territory of Canada,

and notwithstanding anything contained in this Act, the commission has all the powers, authorities and functions expressed or provided in the Act referred to it for administration, or necessary to the proper carrying out of a duty or task assigned to it under this subsection.

5. (1) The Lieutenant Governor in Council shall appoint and prescribe the duties of the following executive officers of the commission:

- (a) a general manager;
- (b) an assistant general manager;
- (c) a general commercial superintendent;
- (d) a general traffic superintendent;
- (e) a comptroller;
- (f) a general plant superintendent;
- (g) a chief engineer.

(2) The salary of any executive officer appointed pursuant to subsection (1) shall be in accordance with a schedule fixed by the Lieutenant Governor in Council.

6. (1) The Minister shall be chairman of the commission.

(2) The commission shall meet not less than once in every month, on fixed days, and shall keep full minutes of its proceedings.

(3) Five members of the commission constitute a quorum.

(4) In the absence of the Minister the general manager shall be acting chairman of the commission.

Powers and Duties of Commission

7. (1) The Lieutenant Governor in Council may make regulations in respect of the keeping and auditing of accounts, the application of funds and the general conduct and operation of the commission.

(2) Authority to make regulations may be delegated. This is similar to section 7 of the present Act except the authority is delegated to the commission instead of to the Minister.

(3) Regulations exempted from the provisions of The Regulations Act.

8. Administrative duties of the commission.

9. Commission to establish terms of service and publish them in its directories. This is in accordance with present practice.

10. Commission given authority to make financial arrangements including the issuing of promissory notes.

11. (1) Commission may issue debentures for the same purpose and under the same conditions as the Government may under section 5, subsection (1) of the present Act with the exception that the \$1000 limit on each bond is omitted. The reference to United States currency in clause (e) is added.

(2) The powers conferred upon the Lieutenant Governor in Council by subsection (1) may from time to time be delegated to the commission in whole or in part and subject to such limitations, restrictions or regulations as the Lieutenant Governor in Council may prescribe.

(3) A regulation made pursuant to this section is not a regulation within the meaning of *The Regulations Act* and that Act does not apply thereto.

8. The commission shall

- (a) appoint such officers and employees as are deemed necessary,
- (b) regulate the installation and maintenance of services to subscribers, classify subscribers and fix standards of service to be furnished,
- (c) prepare from time to time schedules of rates for approval by the Board of Public Utility Commissioners,
- (d) keep the accounts of the system and collect the revenues thereof, and
- (e) establish a schedule or schedules of wages to be paid to any class or classes of employees.

9. (1) The commission shall establish the terms and conditions under which its service is furnished and shall publish those terms and conditions in its directories.

(2) The telephone service supplied by the commission to any person is subject to the terms and conditions published in the commission's current directory.

10. Subject to the approval of the Lieutenant Governor in Council the commission may make such banking arrangements as are necessary for financing the maintenance, operation and extension of the system and without in any way restricting the generality of the foregoing may draw, make, accept, endorse, execute and issue, promissory notes, bills of exchange and other negotiable or transferable instruments.

11. (1) The commission, with the approval of the Lieutenant Governor in Council, may, for the purpose of raising funds required for the purposes of this Act, from time to time issue debentures which

- (a) shall bear interest in such amount and at such rate as the Lieutenant Governor in Council may determine,
- (b) shall be payable at any time not exceeding forty years from their date of issue,
- (c) may be made payable at any place in Canada, in the United Kingdom or in the United States,
- (d) may be made payable either in sterling money, Canadian currency or United States currency,

(2) The Province may guarantee the debentures of the commission.

(3) Execution of the guarantee.

(4) The Provincial Treasurer is authorized to purchase the debentures of the commission.

12. (1) The Provincial Treasurer is authorized to make advances to the commission. This is similar to the provisions of section 11 (1) of the present Act whereby advances may be made to the Minister for the construction and extension of the system. The requirement of a promissory note or other security is added.

(2) Section 11, subsection (2) of the present Act.

(3) New.

13. (1) A reserve trust fund is to be established by the commission which will replace the Provincial Treasurer's Telephone Depreciation and Renewal Reserve Trust Fund presently serving the same purpose.

(2) Section 9 (1) of the present Act slightly reworded.

- (e) shall have coupons attached for the payment of the interest half-yearly or yearly, and
- (f) shall be sealed with the seal of the commission and shall also be signed by the Minister but his signature on the coupons may be lithographed, printed, engraved or otherwise mechanically reproduced.

(2) The Lieutenant Governor in Council may authorize the Provincial Treasurer to guarantee on behalf of the Province the payment of capital and interest on all or any part of such debentures.

(3) The guarantee may be executed by the Provincial Treasurer or by the Deputy Provincial Treasurer, and his signature on the debentures may be lithographed, printed, engraved or otherwise mechanically reproduced.

(4) Notwithstanding any provision *The Treasury Department Act* the Government may purchase debentures issued by the commission.

12. (1) With the approval of the Lieutenant Governor in Council the Provincial Treasurer may, upon the promissory note or other security of the commission, advance to the commission out of the General Revenue Fund such sums as are required from time to time for the capital cost of constructing and extending the system of the commission.

(2) The sums so advanced shall be subject to repayment upon such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may raise by way of loan in the manner provided by *The Provincial Loans Act* such sums as the Lieutenant Governor in Council may deem requisite for the purposes of the Commission and such sums may be paid over to the Commission and shall be accounted for and audited in the manner provided for by order in council.

13. (1) The commission shall set aside out of the revenues of the commission in a fund to be known as the Reserve Trust Fund such sums of money as are necessary for the maintenance, operation and replacement of the system.

(2) The commission may, from time to time, with the approval of the Lieutenant Governor in Council, invest all or any portion of the Reserve Trust Fund not presently required,

- (a) in stock, debentures or securities of the Province, of the Government of Canada or of any of the provinces of Canada,
- (b) in any debentures or securities the payment of which is guaranteed by the Province, the Government of Canada or any of the provinces,
- (c) in debentures of any city, town, village, county, municipal district, school district or municipal hospital district in the Province, or
- (d) in the working plant of its system,

and may afterwards, whenever requisite to meet expenditure out of the Reserve Trust Fund dispose of such investments to that end, in such manner, on such terms and in such amounts as may be necessary or expedient.

(3) The present section 9 (2) reworded.

14. (1) Surplus earnings to be paid to the Provincial Treasurer at the direction of the Lieutenant Governor in Council.

(2) Surplus earnings to be paid into General Revenue Fund.

15. Audit to be made annually by the Provincial Auditor. See section 8, subsection (3) of the present Act.

16. (1) The commission is required to prepare an annual report.

(2) A copy of the report must be laid before the Legislative Assembly.

17. Similar to section 3, subsection (2) of the present Act except the reference is changed from the Government to the commission.

18. (1) Similar to section 4, subsection (1) of the present Act with reference changed from the Minister to the Commission.

(2) Similar to section 4, subsection (2), in part, of the present Act with a reference to the commission substituted for a reference to the Minister.

(3) Similar to the remainder of the present section 4, subsection (2) with reference to the commission substituted for a reference to the Minister.

(3) At the date of maturity of any loan of the commission, such portion of the Reserve Trust Fund as is deemed proper may be used for retiring the loan, in whole or in part, if any funds that exist in the sinking fund for that purpose are first so used.

14. (1) The commission shall pay over to the Provincial Treasurer in any year from the surplus earnings of the commission for that year such moneys as the Lieutenant Governor in Council may direct.

(2) Moneys paid to the Provincial Treasurer under subsection (1) shall be credited to the General Revenue Fund.

15. The Provincial Auditor or his nominee shall from time to time and at least once every year audit the receipts and expenditures of the commission.

16. (1) The commission shall annually, after the end of its fiscal year, prepare a report showing the revenues and expenditures during its last fiscal year, together with a full and complete statement of the reserve funds of the commission and an audited balance sheet of its financial transactions during the period, together with such other information as the Lieutenant Governor in Council may require.

(2) The Minister shall lay a copy of the report of the commission before the Legislative Assembly within fifteen days after the commencement of the next ensuing session.

17. The commission may enter into an agreement with any person providing for the connection, intercommunication, joint operation, reciprocal use or transmission of business between any systems owned or operated by the parties thereto and for such consequent division of receipts, expenditures or profits or such financial or other adjustments as may be advisable or necessary for the purposes of the agreement.

18. (1) The commission

(a) may at any time enter upon and take, or use, any lands in whomsoever vested, and

(b) has full power and authority to do on or in relation to any real or personal property all acts and things that it deems necessary, advisable or expedient to do in order to carry out any authority or power conferred upon it by this Act.

(2) The commission may expropriate, purchase, lease or otherwise acquire land that it deems necessary, advisable or expedient to acquire in order to carry out any authority or power conferred upon it by this Act.

(3) For the purpose of expropriating land the commission has the same powers and may proceed in the same manner as the Minister of Public Works under *The Surveys and Expropriation Act*, relating to the expropriation of land.

(4) Compensation payable. The present section 4, subsection (3) with "commission" substituted for "Minister".

(5) Compensation may be determined by arbitration. The present section 4, subsection (4) changed to refer to the commission.

19. (1) Power to construct telephone lines along and over highways is given to the commission. This is similar to the power presently held by the Minister under section 4, subsection (5) of the present Act.

(2) Power respecting position of poles.

(3) The section 425 referred to authorizes municipal districts to govern to some extent the position of poles, cables, etc. This provision is declaratory of the common law rule that the Crown is not bound by any enactment except by specific words to that effect or by necessary implication. See subclause (4).

(4) New. Settlement of disputes between the commission and municipalities.

20. Civil liability for damage to commission property.

21. (1) Injurious attachments prohibited. This provision is taken from the present section 16, subsection (1), enacted in 1956.

(2) The present section 16, subsection (2) as enacted in 1956.

(4) The commission shall, whenever required to do so, make reasonable compensation for all damage sustained by an owner or person interested in any land or property that it enters upon, uses, expropriates or otherwise acquires.

(5) Where the amount of compensation cannot be agreed upon by the commission and the owner or person interested, it shall be determined in the manner provided by *The Arbitration Act*.

19. (1) Subject to *The Public Utilities Act*, the commission may construct, erect and maintain telephone lines along the sides of, across or under any public highway, street, lane, bridge or watercourse whether the title to the highway, street, lane, bridge or watercourse is vested in a city, town, village, county, municipal district or in the Crown.

(2) Any cross arm, wire or other attachment to a telephone pole may project over the property adjoining a public highway, street, lane, or other public place and any trees or shrubs that are likely to or do interfere with such overhanging cross arm, wire or other attachment may be trimmed to such extent as may be necessary and the owner of such adjoining property is not entitled to compensation for such overhanging cross arms, wires or attachments or on account of such trimming.

(3) A by-law of a municipal district made pursuant to section 425 of *The Municipal District Act* does not apply to the system of the commission.

(4) Where any dispute arises with respect to the use of a public highway, street, lane or other public place under this section between the commission and any municipality, the Board of Public Utility Commissioners may determine the dispute.

20. A person who breaks or damages any telephone wire, not being lower than the height required by law, or who breaks or damages any pole, underground conduit, or cable, being the property of, or under the control of, the commission is liable to the commission for the amount of the damage and for all losses and expenses occasioned thereby.

21. (1) No person shall fix to any telephone equipment of the commission any attachment or device intended to be used therewith, that will injuriously affect the telephone equipment or the operating efficiency of the telephone lines or equipment or endanger the safety of workmen.

(2) Any such attachment or device as is mentioned in subsection (1) shall, for the purposes of this section, be considered to be fixed to telephone equipment if it is attached or fixed thereto or placed on, over, under or adjacent to any such equipment in such a manner as to be able to be used in connection therewith.

22. (1) The present section 17, subsection (1) slightly reworded with references to the commission substituted for references to the Minister and the Alberta Government Telephones System.

(2) The present section 17, subsection (2) slightly reworded and referring to the commission instead of to the Alberta Government Telephones.

(3) Section 17, subsection (3) of the present Act.

(4) Section 17, subsection (4) of the present Act with "commission" substituted for "Minister".

23. (1) The present section 18, subsection (1) slightly reworded and referring to the commission instead of to the Alberta Government Telephones System.

(2) The present section 18, subsection (2) slightly reworded and referring to the commission.

24. (1) New.

22. (1) The commission may sell, rent or otherwise supply to any subscriber equipment known as recorder-connector equipment for use in connecting telephone equipment installed by the commission with recording equipment of the subscriber to be used in recording messages transmitted through a system of the commission.

(2) No person in the Province shall use any recording equipment to record messages transmitted through a telephone or telegraph system of the commission unless the recording equipment is so connected by means of recorder-connector equipment supplied by the commission that an audible signal is emitted when a message is being recorded.

(3) Evidence of the finding of recording equipment, any part of which is either attached to, or placed on, over, under or adjacent to, telephone equipment in such a manner that recording can be carried on through or by means of the recording equipment is, in any prosecution under this section, admissible in evidence as *prima facie* proof that the recording equipment was being used to record messages in contravention of this section.

(4) Where any person contravenes subsection (2) the commission may forthwith either disconnect the telephone service or remove the telephone equipment of that person, or disconnect the telephone service or remove the telephone equipment of the person whose telephone equipment has been used for that purpose.

23. (1) Except in the case of employees of the commission using such equipment as may be supplied to them for service reasons, or telephone answering services approved by the commission and using approved equipment, no person shall use any equipment, device, apparatus or contrivance for the purpose of intercepting and listening to messages passing through a telephone or telegraph system of the commission, whether the equipment, device, apparatus or contrivance works by being directly attached to the wires or any other part of the lines or equipment of the commission, or by induction or by any other means.

(2) Evidence of the possession by any person of any equipment, device, apparatus or contrivance capable of being used for intercepting and listening to messages passing through a telephone or telegraph system, or under such circumstances that it is capable of being so used, is, in any prosecution under this section, admissible in evidence as *prima facie* proof that the equipment, device, apparatus or contrivance was being used for the purpose of intercepting and listening to messages passing through a telephone or telegraph system of the commission.

24. (1) A person who contravenes subsection (1) of section 21 is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days.

(2) Section 19, subsection (1) of the present Act with the minimum fine removed.

(3) Section 19, subsection (2) of the present Act with the minimum fine removed.

25. Section 12 of the present Act with a reference to the commission substituted for a reference to the Minister.

26. (1) The present section 13, subsection (1) with a reference to commission substituted for a reference to the Deputy Minister of Telephones.

(2) Section 13, subsection (2) of the present Act.

27. (1) The present section 14, subsection (1) with "commission" substituted for "Minister".

(2) Section 14, subsection (2) of the present Act.

28. Section 15 of the present Act with a reference to the Minister replaced by a reference to the commission.

(2) A person who contravenes subsection (2) of section 22 is guilty of an offence and liable on summary conviction to a fine of not more than one thousand dollars, and in default of payment to imprisonment for a term of not more than three months, or to imprisonment for a term of not more than three months without the option of a fine, or to both fine and imprisonment.

(3) A person who contravenes subsection (1) of section 23 is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars, and in default of payment to imprisonment for a term of not more than six months, or to imprisonment for a term of not more than six months without the option of a fine, or to both fine and imprisonment.

Pension Scheme

25. The commission shall provide for annuities or other payments by way of pension, superannuation or death benefits to employees or any class or classes of employees, their dependants or their executors or administrators, as the case may be, and in the event of so doing shall embody the provision so made in a pension scheme, which upon being approved by the Lieutenant Governor in Council, is operative according to its tenor.

26. (1) The pension scheme shall be administered by a board which shall consist of three persons who shall be appointed or elected as follows:

- (a) one, who shall be chairman, shall be appointed by the commission;
- (b) one, holding an office under the commission not lower than a rank to be prescribed by the commission, shall be elected by popular ballot of all participating employees;
- (c) one, below the rank prescribed under clause (b) shall be elected by popular ballot of all participating employees.

(2) The appointment or election shall be made or carried out in such manner and shall be for such period as may be prescribed by the scheme.

27. (1) The Lieutenant Governor in Council shall upon the recommendation of the commission direct that there be paid an annual payment out of the revenue of the system into any pension fund that is created under the pension scheme.

(2) The annual payment shall be such sum of money as is required under the provisions of the pension scheme.

28. The scheme may be altered from time to time by the Lieutenant Governor in Council upon the recommendation of the commission.

29. (1) The present section 16, subsection (1) with "moneys of the commission" substituted for "public moneys".

(2) The present section 16, subsection (2).

30. Agent of the Crown. Right of action by and against the commission.

31. A member of the Legislative Assembly may obtain telephone services from the commission without prejudicing his right to sit.

32. (1) All assets and liabilities of the Government in connection with the telephone system are vested in the commission.

(2) Transfer of land.

(3) Court proceedings arising out of the operations of the telephone system are to continue in the name of the commission.

29. (1) The interest of any employee in any pension fund under this Act and in any annuity or other payment granted under this Act, is not subject to garnishee proceedings or attachment, seizure or any legal process, except in respect of a charge of failure to account for moneys of the commission.

(2) An interest of any employee referred to in subsection (1) is unassignable.

General

30. (1) The commission is for all purposes of this Act an agent of the Crown in right of the Province and its powers under this Act may be exercised only as an agent of the Crown.

(2) An action, suit or other legal proceeding in respect of any right or obligation acquired or incurred by the commission on behalf of the Crown in right of the Province, whether in its name or in the name of the Crown, may be brought or taken by or against the commission, in the name of the commission, in any court that would have jurisdiction if the commission were not an agent of the Crown.

31. The making of a contract for telephone connection or telephone service by a member of the Legislative Assembly with the commission does not operate to forfeit or vacate his seat in the Legislature or affect his right to sit or vote therein.

32. (1) All land, plant, supplies, buildings, works, rights, contracts, franchises, easements, assets, liabilities and property of every kind, including things in action and causes of action, owned, held, incurred or used by the Government of Alberta for the purposes of and in connection with the telephone and telegraph system owned and operated by the Government and commonly known as the Alberta Government Telephones or the Alberta Government Telephones System are hereby transferred to and vested in the commission.

(2) The Lieutenant Governor in Council may, by order, specify the lands that are vested in the commission by subsection (1) and thereupon the Registrar of the appropriate land titles office shall register the commission as the holder of an estate in fee simple in the lands so specified as if such order were a notification or a registerable transfer, as the case may require.

(3) No suit, action or other proceedings or power or remedy being exercised shall be discontinued or abated on account of this Act but the same may be continued in the name of the commission which shall have the same rights and be subject to the same liabilities and shall pay or receive the like costs as if such suits, actions or proceedings had been commenced or defended by the Crown in right of the Province.

(4) Any Government debentures issued for the purposes of the telephone system are deemed to be debentures of the commission.

(5) Any moneys heretofore expended by the Government for the construction and extension of the telephone system are subject to repayment. See section 11 of the present Act.

33. Self-explanatory.

34. Repealing section.

35. Coming into force.

(4) Any debentures heretofore issued by the Government pursuant to subsection (1) of section 5 of *The Telephone and Telegraph Act* for the purposes of the Alberta Government Telephones System shall be deemed to be debentures of the commission issued pursuant to subsection (1) of section 14 of this Act and guaranteed by the Province pursuant to subsection (2) of section 14 of this Act.

(5) Any sums heretofore advanced by the Provincial Treasurer to the Minister out of the General Revenue Fund for constructing and extending the telephone system pursuant to section 11 of *The Telephone and Telegraph Act* are subject to repayment upon such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

33. Any reference in any other Act to the Alberta Government Telephones System or to the Alberta Government Telephones or to the telephone system shall be deemed to be a reference to the commission established by this Act.

34. *The Telephone and Telegraph Act*, being chapter 332 of The Revised Statutes of Alberta, 1955, is hereby repealed.

35. This Act comes into force on the first day of April, 1958.

No. 79

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

An Act to Establish the Alberta
Government Telephones Commission

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TAYLOR
