

opposite side of the street, where it joined the main electric line passing up and down St. Paul street. The poles carrying this particular span were 29 feet high, and the span was 113 feet. At the time of the accident, it was found that the messenger wire was 4 feet 6 inches below a straight line between the electric light insulators.

The electric wire was put up in August, 1911, or earlier. The telephone messenger wire was not placed in position until some time in 1912. The evidence as to the relative positions of the two wires at the latter date is exceedingly meagre and unsatisfactory. The electric wire, when placed in position, had, it is said, a sag of two feet. This would bring the wire within 2 feet 6 inches of one another, assuming that no further sagging took place between the time of the stringing of the electric light wire and the time of the placing of the messenger wire.

It was shewn that the stretching of the copper wire on a span of this kind would be infinitesimal. The increase in the sag between the time of stringing and the time of contact was occasioned by the settlement or bending of the electric light poles, which were not sufficiently guyed to prevent the sagging. Experts stated that, as a matter of calculation as well as of experiment, if the tops of the poles each moved two inches inwardly, this would bring the wire down from the 2 feet to the 4 feet 6 inches. It is altogether probable that most of this settlement took place when the poles were newly erected; so that I am satisfied that there was not anything like a clearance of 2 feet 6 inches when the messenger wire was placed in position.

All parties agree that to insure safe construction wires should not be placed closer than 3 feet, as some sagging is inevitable, and there is always danger of extra sagging being caused by sleet and ice.

I find as a fact that the electric company, in the erection of its poles, did not take adequate precautions, by guying or otherwise, to prevent the increase of the sag in their wire, and that they did not inspect the wire, or they would have discovered the contact, which existed from early in the summer until the time of the accident.

It was shewn in evidence that throughout the summer this wire, when swung by the breeze or otherwise, emitted sparks when it came in contact with the messenger wire; and some children were called to testify that their summer evening amusement was the making of fireworks by swinging on the guy wire so as to cause the wires to separate and come in contact, and to emit flames.