

"The Defendant, Sigismund Mohr, is put upon his trial upon an indictment for causing a public nuisance in Buade street, in the City of Quebec; to wit, for having on the 13th day of December, 1880, and on divers days and times between that day and the taking of the inquisition on the said indictment, on which the Grand Jury found a true bill the 2nd of May, 1881, obstructed a certain street called Buade street, situate in the City of Quebec, in the District of Quebec, being the Queen's common highway, by unlawfully and injuriously putting, planting and erecting in said street three posts or poles commonly called telegraph poles, and ever since unlawfully and injuriously permitting, suffering and causing said poles to be and remain in and upon the Queen's highway aforesaid, whereby it was obstructed and straitened so that the Queen's liege subjects could not pass in said highway as they were wont to do with their horses and carriages, to the great damage and common nuisance of all Her Majesty's liege subjects going and returning in, through and upon the said Queen's highway, to the evil example of all others in like case offending, and against the peace of our lady the Queen, her Crown and dignity.

"The private prosecutor, James Carroll, the Mayor, the City Engineer, the City Clerk and several other witnesses were examined in support of the prosecution, and two witnesses for the defence.

"The result of the evidence went to show that the defendant Sigismund Mohr, as agent and employee of the Bell Telephone Company, in the month of May, 1880, placed three telegraph poles in Buade Street, in the City of Quebec, on the south side of the street; one opposite the office of the *Telegraph* newspaper owned and occupied by James Carroll, the private prosecutor, one opposite Renfrew, the furrier's establishment, and the third at Poston's corner, further to the west. These posts were used by the Bell Telephone Company for placing their wires thereon, and for the purpose of communicating in the course of their business. The narrowest part of the street is opposite the *Telegraph* office, having there a width of only 32 feet, and the post placed at this point is let into the footpath, which for the purpose is cut to the width of 18 inches. The other two posts are placed in the street immediately outside the

line of the footpath. The City Passenger Railway passes through the same street and terminates near the *Telegraph* office, which it passes. It is also placed on the south side of the street, very near the footpath; when the car passes there is but a space of 12 inches between it and the post opposite the *Telegraph* office. These posts are an obstruction which diminish the free use of the street, particularly the foot path at the *Telegraph* office, which had a width of six feet, now diminished to about four and a half feet by the erection of the telegraph pole at that point. Previous to its erection, three foot passengers could pass abreast; since, only two can pass, and that with difficulty. The obstruction would be dangerous in case of runaway horses or persons attempting to get in or out of the City cars when in motion near the post.

The posts were so placed in Buade street by the defendant Sigismund Mohr on behalf and by the instructions of the Bell Telephone Company, who for the purpose obtained the sanction and approval of the City Corporation. The City engineer was first applied to, and gave his sanction to have the posts placed on the north side of the street, at points by him selected and pointed out for the purpose; but the Mayor noticing them going on, and differing in opinion with the engineer as to the side of the street on which they should be placed, he stopped the work and had the matter referred to the City Council, who adopted his view, and ordered the posts to be placed on the south side, whereupon the engineer selected the spots for placing them, but has himself retained the opinion that they would have caused less inconvenience on the north side.

"By purchasing rights from private proprietors the company might have avoided placing the posts in the street. This course was recommended by the Mayor, but was for the time found by the Company to be impracticable. Stretching the wires on posts is the least objectionable way of using them in cities. Buade street is a main thoroughfare between the Upper and Lower Town, and is much frequented.

"In the district of Quebec, the Bell Telephone Company have extended their poles and wires from Bridgewater to Montmorency, and are using them for the purpose of their business, in communicating within and between these