

in, on and above said streets, and have interfered with and invaded the fire alarm system of the city; that no authority has been given them to do this, under Letters Patent; that the only authority pretended to be so given was by the Lieutenant-Governor-in-Council, and is *ultra vires* of the powers of the Lieutenant-Governor-in-Council; that respondents have so constructed their works to the public nuisance, to the injury of petitioners, the owners of said streets, and unless they are restrained from carrying on their illegal acts, and their poles and wires be removed, petitioners will be seriously and irreparably injured; and they ask for a writ of injunction calling upon respondents to answer the complaint of petitioners and that they be ordered to suspend and stop their works, the planting of telephone poles and stretching of their wires in, on and above said streets, and to stop their works of demolition and construction, and that they be ordered to remove their poles and wires from off said streets and squares and from above them, and in default of so doing within fifteen days petitioners be authorized so to do at their, respondents,' cost.

Upon this petition, after sundry affidavits had been filed, which involved considerable delay, a writ of injunction was ordered, was served, and returned on 15th February.

Respondent appeared, and again a bill having been presented to the Provincial Legislature to give by legislative enactment the powers required by respondents, additional delay was granted on respondents' motion of February 19th, asking for a delay of one month to plead, and copy of bill filed with it, respondents exhibit No. 1, and on 9th March respondents filed their pleas.

1. General denial of petitioners' allegations.

2. That they never have committed the acts alleged in the petition, specifically negating the allegations and denying that petitioners are owners of roads and streets, but the same belong to the Crown; that they have not taken possession of any of the streets or squares of the city of Sherbrooke, nor have they carried any wires along or across the property of petitioners nor caused any nuisance or injured petitioners.

3. Petitioners, though filing *Letters Patent* of respondents, do not ask that they be annulled or declared invalid, and respondents have the right until the same are annulled (in the words of the plea) "to do as *therein empowered and as they have done in respect to the premises.*" Then they go on to raise the real issue: "That the corporation of the city of Sherbrooke, which was created by the Legislature of the Province of Quebec, was so created subject to the laws passed, *i. e.* authorized by the Legislature of the said province in force at the time the said corporation received its charter, and further subject to the amendments to the said laws to be thereafter from time to time made by the said Legislature, either restraining, restricting or augmenting the powers of the said corporation. That within the scope of the said laws of said province is the authorization of the Lieutenant-Governor-in-Council to give to respondents all the powers by them *exercised and in the present proceeding complained of.*"

That the ownership of the said streets is limited to the right to exercise such possession over and control thereof as may secure to the public in general free and safe passage along and to and fro upon the same for themselves, vehicles, domestic animals, etc.

That respondents have given a monopoly to the Bell Telephone Company, which is illegal.

That petitioners have not and cannot suffer any appreciable loss, damage or inconvenience by respondents' acts, and the proceeding is not brought in their interest but in the interest of the Bell Telephone Company.

That they gave due notice to petitioners of their application for charter; gave notice to petitioners and their officers of their intention to erect poles and wires in said city; called upon them to name a person to confer with them as to place, and that this was refused; that they proceeded with their works without protest at great expense; that they largely placed their poles on private property; only erected poles on those streets not much travelled; so crossed the street as not to affect petitioners' fire alarm system; that petitioners have waived their rights by failure to protest; that there is no right to injunction, but should be by action, as there is an adequate remedy.