

rather than an attempt to put this through without your consent and apologize for the situation that has arisen," and concluded by asking Mr. Harris to forward his consent or advise of his objection.

On the 12th October, 1912, Harris replied to the Chief Engineer advising him that the consent would not be given.

In the meantime, at a meeting of the Board of Control, held on the 8th of the same month, a communication was read from the City Solicitor advising that he had received an application on behalf of the Toronto and Niagara Power Company to erect poles for the purpose of crossing the Hydro-Electric Power line on Davenport road and Bathurst street, and that the drawing, No. 329, accompanying the application, shews the erection of towers instead of poles as mentioned in the application, and recommending that the application should be refused; and there was also read a communication from the Commissioner of Works forwarding a copy of a letter from the Chief Engineer of the Toronto Power Company, Limited, covering the matter of the application referred to in the solicitor's communication, whereupon it was ordered:

"That the City Solicitor and the Commissioner of Works be advised that the Board of Control on behalf of the city refuse to locate the poles mentioned in the application of the Toronto Power Company, and further order that the police department be authorized to prevent the poles in question being erected."

This action of the Board of Control was not communicated to the police authorities nor was it reported to the Council.

On the 17th October, 1912, a letter was sent by the Power Company to the Commissioner of Works, informing him that the city's consent had been asked "as a matter of courtesy only," notifying him that the company proposed to carry out the work with the least possible delay, and asking to be informed of the city's attitude in the matter. To this letter the commissioner replied, on the 25th of the same month, that he had nothing to add to his letter of the 12th October.

There was no evidence of any other communication, written or verbal, from the Mayor to the Chief Constable or the police authorities after the letter of the 2nd October, to which I have referred; and it was assumed at the trial—although