

able cause, caused the appellant to be arrested and imprisoned (par. 2) and that on the following day the respondent falsely and maliciously and without any reasonable or probable cause, caused a police constable, named David McKenney, to appear as informant before a Justice of the Peace and to charge that the appellant had been disorderly on the previous day contrary to a by-law of the respondents (par. 3).

Evidence was adduced by the appellant establishing that on the 30th day of October, 1912, he was arrested by Sergeant Martin, a member of the police force of Toronto, and afterwards taken to the police station; that the reason for the arrest was the refusal of the appellant to stop the work which he was superintending of erecting steel poles and putting up transmission wires on a city street for the Toronto and Niagara Power Company. It was also shewn that McKenney acted in obedience to the direction of Sergeant Verney, acting Inspector of No. 7 Division, and that the latter acted under the written instructions of the Chief Constable.

It was proved that on the 31st October, 1912, McKenney laid an information before the Acting Police Magistrate of the city, charging the appellant and eight other men with having been disorderly contrary to a city by-law; that they were remanded from time to time until the 30th of the following December when they were all acquitted, and an endeavour was made to fix the respondent with responsibility for these proceedings.

It appeared in evidence that previous to the arrest of the appellant there had been disputes between the respondent and the power company as to the latter's right to erect its poles in the city streets; that on the 2nd October, 1912, the Mayor had written to the Chief Constable authorizing him "to prevent the erection of certain steel towers by the Toronto Power Company and that an attempt on that day to erect the poles had been stopped owing to the intervention of the police acting under the authority of this letter. On the following day a letter was written by the Chief Engineer of the Power Company to Mr. Harris, the respondent's Commissioner of Works, in which, after stating that owing to a misunderstanding of the company's foreman of construction, he had started to erect the poles, although he claimed that he had no intention of stringing wires, he went on to say: "I trust that you will consider this a misunderstanding