

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 authorised 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 there was not a tittle of evidence to support the assumption—that the action of the police authorities of which the appellant complains was taken under the impression that it was authorised by that letter.

We are of opinion that the letter of the Mayor of the 2nd October did not authorise nor assume to authorise any such action as was taken by the police authorities, and that the resolution of the Board of Control was not a ratification of what the Mayor had done, nor would it have been, even if it had been communicated to the police authorities, any authority for their action.

The authority in both cases was to prevent the erection of the poles or towers, and was not, and cannot by any process of