

This renders it necessary that I should examine with care the Municipal Act as it now stands to ascertain if the requirements of the by-law can be justified under it.

Little would be gained by any attempt to analyse the former Act and the by-law passed under it; though it is important to note that the by-law had been in force for many years without attack.

The old section, which contained the words above quoted, has now been amplified, and by R.S.O. 1914 ch. 192, sec. 400, subsec. 4, the council has power to pass a by-law "for regulating the size, strength, . . . and for requiring the production of the plans of all buildings and for charging fees for the inspection and approval of such plans." The change made by the Legislature in the wording of the section, after attention had been drawn to it by the decision referred to, is most significant, and I think is ample to confer upon the municipality the right to require the plans to be produced and approved, which is what is meant by the granting of the building permit; and this, I think, is wide enough to cover the requirement that, when a change is being made in the work permitted from the plans approved, this change shall also be submitted for sanction.

There is much in the other provisions of the statute which goes to fortify this view; but, as I think that the section itself is ample, these provisions need not be analysed with a view of spelling out the intention of the Legislature.

The changes made were at the time of the trial substantially completed. An interim injunction had, I understand, been applied for, and the defendant had in the meantime been allowed to proceed at her own risk.

Evidence was given by the defendant's architect that the building as now being constructed is in conformity with the requirements of the by-law; and, although I asked those representing the plaintiff corporation to point out any respect in which the building violated the by-law, I was not shewn that the architect's statement was incorrect.

I think I have a discretion, which I ought to exercise in this particular case, to refuse to order the destruction of the building upon the ground that it has been erected in its present form without the plans having been submitted. If the building is in fact in accordance with the by-law, this destruction would serve no good purpose. I think the circumstances of the case are in some aspects very exceptional; and I must not be understood as indicating that this course would be followed in any