

it would, and it did not if it could, contract away the right to construct sewers in any part of the public streets it might deem necessary and that the plaintiff took its contract right to lay its pipes in the public streets subject to the paramount and inalienable right of the city to construct its sewers wherever therein, in its judgment, the public interests demanded. I think the contention of the city is correct." (Citing *Butchers Union Co. v. Crescent City*, 111 U. S. 746). See also *Belfast Water Co. v. Belfast* (1898), 92 Me. 52.

In the English case of *Southwark and Vauxhall Water Co. v. Wandsworth District Board of Works*, [1898] 2 Ch. 603, where "a water company in exercise of statutory powers laid down pipes under the surface of the street, and the highway authority of the district afterwards, in exercise of their power in that behalf, proposed to lower the surface of the street, without altering or disturbing the position of the pipes, but so as to leave only a few inches of soil over them. In an action to restrain the highway authority from lowering the surface of the street without at the same time lowering the pipes of the company to a corresponding depth under the new surface, it was held that the 98th section of the Metropolis Management Act, 1855, under which the highway authority acted, did not impose on them, when exercising the power thereby given to them of altering the level of a street, any express or implied duty to exercise also at their own expense the power by the same section given of altering the position of the pipes thereunder for the benefit of the water company, in a case where the highway company did not require for their own purposes to interfere with such pipes. Lord Justice Lindley, M.R., in his judgment at p. 608, said: "The plaintiff pay nothing for the privilege of laying their pipes down in a public path or road, and they run the risk of having the surface made higher or lower by the road authorities under their statutory powers." Lord Justice Chitty, L.J., at p. 609, said: "The case is one of some importance; for the decision will affect not only water companies, but gas and other like companies who have the like statutory privilege of laying pipes under the public streets in the metropolis. For these privileges they make no payment. I am unable to find in the section any express or implied duty cast on the road authority. When