

"Section 54 indicates the proceedings required to secure such expropriation.

"Appellant attacked the expropriation proceedings both as to their form and on the merits. The issue as to the form of the proceedings has been disposed of against appellant's contentions and it would seem preferable to at once discuss the merits of the case. Appellant contended that the by-law, adopted by respondent, for the purpose of securing the right of way, is illegal, null and void, as were also the expropriation proceedings. As provided by section 54, cited above, the council may, by way of proceedings in expropriation, acquire the ownership in a lot from the proprietor thereof, for any object of public utility of a municipal nature. Does this section give the council the right to acquire a right of way? The judgment of the court below is in the affirmative. The grounds relied on by the Superior Court in support of its judgment are that a right of way is a real right upon the servient land; that it is attached to such land and that, from the viewpoint of its intimate connection with the land, the law declares it to be an immovable right by reason of the object to which it is attached; that the petitioner has the power to acquire such a right in virtue of its charter.

"To come to the conclusion it did, the Superior Court has gone beyond the terms of said section 53. I am of the opinion that respondent is not empowered to acquire a right of way over appellant's land; that is to say, to possess a servitude of that kind in order to facilitate access to the proposed wharf. Respondent may acquire property for the purpose of making a street. It then becomes absolute master of the land and may give to such street the width, curve, up-keep, incline and improvements re-