

authority. If the law is so, it must be given full effect—the town council is a statutory body, having duties defined by the legislature, and no one may interfere if the limits of such duty be not transgressed. If the law be as contended, though it give the council of Welland the right to direct a construction which may result in death anywhere within a radius of 50 miles or more, the responsibility is cast upon the council, and the Court cannot divest it of that responsibility. One might venture with some confidence to say that such a direction could not have been given with a full appreciation of the possible consequences; and probably all will agree that the safeguarding of human life is of more importance than the beauty of the streets; but, if the legislature has made the council the final judge, all must submit. Before, however, such a far-reaching claim can be allowed, there must be the clearest expression of intention by the legislature in that sense. Into this we must now inquire. In *Bell Telephone Co. v. Belleville Electric Light Co.*, 12 O. R. 571, the facts were that the telephone company had erected their poles upon the streets of Belleville, and two years thereafter the Belleville Electric Co. erected theirs. The plaintiffs, alleging that the defendant's wires were placed so near to their own that it was dangerous when the instruments were working or in electric storms, brought their action. The defendants contended that they had placed their poles where they had been directed by the city engineer, but the Court held that the "city council had not the right to destroy or prejudice the privilege they had already granted the plaintiffs:" p. 581. I do not think that there can be any difference in principle whether the "privilege" of the plaintiffs were granted by the municipality or by the Dominion of Canada—and I think the judgment of the Court would have been the same had the Court considered this privilege a statutory one rather than as granted by the city.

It is contended, however, that the legislature has, by the statute of 1906, 6 Edw. VII. ch. 34, sec. 20, given this power to the municipality. That section amends sec. 559 of the Consolidated Municipal Act, 1903, so as to make sec. 559 read thus: "By-laws may be passed by the councils of the municipalities, and for the purposes in this section respectively mentioned, that is to say: By the councils of cities, towns, and villages 4. For