

## **The Defence Of Statutory Authority: Nothing To Bark At**

<b>Reported Case:</b>	<i>Butler c. Corporation de distribution et service à la clientèle énergie du Nouveau-Brunswick</i>
<b>Citation:</b>	2009 NBBR 90
<b>At Issue:</b>	Whether a public utility corporation is liable for private property damage resulting from acts done in accordance with their statutory authority.
<b>The Court:</b>	Court of Queen's Bench of New Brunswick
<b>Judgment Rendered:</b>	April 9, 2009
<b>Factual Summary:</b>	The defendant New Brunswick Power Distribution and Customer Service Corporation entered the plaintiffs' property, and cut and damaged many trees with the stated purpose of ensuring the proper functioning of electrical lines. The plaintiffs sought \$34,000 in compensation for the damage to their property as well as aggravated damages. The defendant denied any liability on the basis that their work was authorized by statute.
<b>Disposition:</b>	The defendant was statutorily authorized, pursuant to the New Brunswick <i>Electricity Act</i> , to enter the plaintiffs' property and cut trees susceptible to falling or otherwise causing a danger to the power lines. However, some trees ought not to have been cut, and there were numerous alternatives available to the defendant in carrying out its work. Thus, the actions undertaken were not the inevitable result of the operation of the activity authorized the statute. The defendant was liable. The evidence was insufficient, however, to support the damages claimed. The court awarded the plaintiffs \$1,000.