

ment, though it gave that government a *locus standi* to enforce the rights of the company in the agreement with the Khedive and the Sultan, could not affect its international position, and some negotiations, which were started shortly before that purchase, for the handing over the management of the canal to an International Commission, fell to the ground before the decided opposition of the Porte. At the outbreak of the Russo-Turkish war M. de Lesseps proposed a general agreement between the European governments that the canal should at all times be open for ships of war as well as of peace, the disembarkation only of troops and munitions of war being forbidden. Lord Derby, however, refused to entertain the proposal of any such agreement, and contented himself with a notice to both the belligerent governments that any attempt to stop the canal would be incompatible with the maintenance by Her Majesty's government of passive neutrality. It would seem, therefore, that there are no special international obligations affecting the Suez canal at all. It is simply a part of the territory of Egypt and her suzerain, the Sultan, subject in all respects to their control, but leased for ninety-nine years to a company formed under and governed by French law, upon terms which, in so far at least as regards the tolls to be levied for passage, the Sultan has voluntarily declared he will not alter without consulting the Powers. It is also subject to whatever rights of user can be claimed over it by international law in consequence of its being one of the highways of the world, and the only passage between two open seas, which rights have been to some extent recognized by the voluntary declaration of the Sultan above referred to. What the measure of such rights may be it is impossible to say, but they cannot be greater than those which obtain in a natural strait between two seas where both shores are in the territory of the same power. It seems to be the accepted opinion of jurists that in such a case, while the territorial power has no right to prevent the passage of merchant ships, no other power has a right to claim passage for ships of war, or troopships. In law, therefore, as well as in fact, the canal can only be kept open for English troopships and ships of war either by special treaty with all the European powers or by England's possessing in some

form or another the control of the territory within which the canal is situated.—*London Law Times.*

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, January 31, 1882.

JOHNSON, TORRANCE, RAINVILLE, J. J.

[From S. C., Montreal.

LA MUNICIPALITÉ DU VILLAGE DE LA POINTE CLAIRE V. LA CIE. DU CHEMIN DE PEAGE DE LA POINTE CLAIRE.

Injunction—Removal of a work completed—Interest of party complaining.

This case was inscribed by the defendant on a judgment of the Superior Court, Montreal Papineau, J., Dec. 24, 1881:—

JOHNSON, J. This was an application for a writ of injunction to order the removal of certain turnpike gates, and to restrain and forbid the taking of tolls at them; and it was refused by the learned Judge to whom the application was made, on the grounds that may be shortly stated as: 1st, that the statute of 1878, c. 14, authorizes injunctions only to *suspend* certain acts, proceedings and operations (Sec. 1st), and 2ndly, as regards the tolls, on the ground that they were taken from the public, and not from the party plaintiff, who had no right to complain on their own behalf.

The case was argued here altogether upon the questions of the right—1st, to erect the gates, and 2ndly, to exact the tolls, as if an injunction would be granted in all cases where a violation of right had been committed, without respect to rules of expediency and justice. Now, the reasons assigned by the learned Judge for refusing the writ were certainly of a very grave character, and should have been argued. There were two things asked:—first, it was asked to enjoin the removal of the gates which were already constructed and put up; secondly, to enjoin the non-exaction of tolls. The learned Judge below held, as regards the gates, that he could not grant an injunction to remove a thing already done and accomplished. As respects the exaction of toll, that question stood upon a different ground altogether: it was a thing which was being done, and which it was possible, as far as the nature of it went, to stop, pending the trial