dam on its channel or bed would be an unlawful act, unless sanctioned in a proper manner by both governments, the provincial and the federal, according to the opinions expressed by the Judges in Re Provincial Fisheries Case, 26 S. C. R. at p. 449. Even if there was a grant of the land to defendants proved, it would not carry title to midstream of the navigable river. The land on which the northerly pier or abutment is left as a relic, is in the township of Wood, in the territorial district of Muskoka. So that I think it is a proper conclusion to say that the obstruction was not upon property owned or controlled by defendants, and it was open for any one aggrieved to enter upon the premises for the purpose of abating what proved to be a nuisance; and defendants did not forbid, nor did they take any steps to protect, the obstruction from being demolished either by the contractor or plaintiff and his neighbours.

In strict law, even if there was a nuisance erected on defendants' property by Patriarche, and it was proved that this was maintained or continued by the town of Orillia, yet an action does not lie against one who continues the nuisance unless plaintiff has made a request that it be abated. The alleged injury in this case in 1902 arose before any request was made to defendants to remove the obstruction, which was not done at all by plaintiff or in any formal way till the spring of 1903, and after that no damage is proved: see Penruddock's Case, 5 Rep. 101, which has settled the law for three centuries. This ancient authority was applied lately in a case similar as to this, by the United States Court of Appeals, in Philadelphia v. Smith, 28 U. S. App. 134 (1894), where it was said: "A grantee should not of course be held responsible for the creation of an injurious structure by his grantor, and if not notified of objection he may be ignorant of its harmful nature, or may legitimately presume that it is voluntarily submitted to, and therefore a plaintiff ought not to be permitted to recover damages for injury alleged to have been done to him by the maintenance of a fore-existing condition during a period when, with full knowledge of his hurt, he had made no complaint of it nor requested the removal of its cause:" p. 138. The application of one farmer, Doolittle, cannot enure to the benefit of another such as the plaintiff, for each cause of action is distinct, and each one seeking damages should make complaint, as a first requisite of relief, in case of a nuisance continued by one who is not the creator of it. Ewing v. Hewitt, 27 A. R. 296, may also be referred to.