

interest and sustained such special damage as gave him an actionable right.

"If any direct injury resulted to a private individual from any obstruction placed in a public travelled highway, whether on land or on water, which injury was other and greater than that occasioned to, or suffered by, the general public, the person so injured had his remedy by action at common law for damages, and in equity by injunction to restrain the continuance of the obstruction causing the injury. There is no lack of cases which establish this proposition." *Hislop v. Township of McGillivray*, 17 S. C. R. 479 (at 480).

Dealing now with the claim that defendants have trespassed on plaintiff's lands, removed trees therefrom, and built their jack-ladder thereon, not a little evidence was given tending to shew that the ladder does not encroach on plaintiff's lands, and that it is situated entirely on the one chain reserve. When plaintiff became aware that defendants were building the ladder, he notified their representatives that it did so encroach.

The raising of the waters by defendants created an abnormal condition; a fact which to a considerable extent entered into the evidence on the question of the location of plaintiff's property.

Plaintiff submitted the evidence of two qualified land surveyors, who, in the summer of 1912 found that the water had encroached 20 to 25 feet beyond the line of vegetation. This was due to the rising of the water above its normal height. It was not a case of slow and imperceptible encroachment which results in an alteration of boundaries. These surveyors, one of whom had located the stakes of the original survey, as a result of their investigations and measurements found that the ladder had encroached on plaintiff's lands to the extent of at least 320 feet (one of them puts it at much more than that), and that thereby a small triangular piece of plaintiff's land of about similar area lying to the east of the ladder was severed from his other lands.

For defendants was submitted the evidence of three persons who had made or helped to make measurements in the locality for the purposes of the railway company,—one of whom also made a measurement and survey of this property in August, 1912. These were put forward as land surveyors, but it turned out that one only of them is entitled