

which in fact did not reach the river when the deed was made—does not become riparian when the intervening land is washed away, and the river in fact becomes a boundary.”

In considering authorities which are not binding upon me and when I have to decide “upon reason untrammelled by authority,” (per Werner, J., in *Linehan v. Nelson*, 197 N. Y. 482, at p. 485), I prefer those United States decisions, which I have earlier cited. There have also been cited to me authorities which it is claimed dispose completely of the *Widdcombe Case*, viz., the *Lopez Case*, which is reported as “*Lopez v. Muddun Mohun Thakoon*,” in 13 Moore’s Indian Appeals, at p. 467; *Singh v. Ali Kahn*, L. R. 2 Indian Appeals, 28, and Theobald on Land, p. 37.

It was strongly contended by the junior counsel for the plaintiffs that, apart from the main question, and granting that the erosive action of the lake has encroached upon the plaintiff Carr, and that he has lost some of his land, then at any rate he only loses it down to the low water mark. But having regard to the view that I take about the main question, it is not necessary to consider that argument.

I do not see that the Statute 1 Geo. V. ch. 6, has any application to this case; nor do I see that the Attorney-General ought to bring the action or is a necessary party, the plaintiffs being concerned only with the trespass upon their lands and not with any supposed public right.

The good faith, or the opposite, of the defendants in making the trespass is a matter of no consequence in the disposal of the action.

I find, therefore, that there has been a trespass by defendants upon the plaintiffs’ land, and that they are entitled to have the injunction herein made perpetual, with full costs on the High Court scale and ten dollars damages.

Thirty days’ stay.

The injunction orders are not before me. If any questions of costs are reserved for the trial Judge, plaintiffs are to have costs all through.