

But it was argued that inasmuch as under sections 100 and 698 of the Municipal Code, (and 4389 Revised Statutes) plaintiff as an elector had a right to demand the annulment of the resolution on which the contract under which the works in question were being done is based, it necessarily follows that, as such elector, he must of course have the right of having the contract based on such resolution also annulled, and the works being done thereunder arrested, and those already done demolished.

No authority was cited bearing out this extension of the rights conferred upon a municipal elector by the sections referred to.

The court sitting here is not called upon to deal with the question whether or not the sections cited give to an elector the right, not only of demanding as against the members of the council, his representatives, the annulment of an illegal resolution, but the further right of exercising the right of action of the municipality against a third person to have annulled a contract entered into by said municipality with such third person in virtue of an illegally passed resolution.

This question will present itself for decision upon the trial of the principal case upon its merits—which case is not now before the court.

For the present what is to be dealt with is the pretension that because the law gives an elector a right to demand the annulment of a resolution, it also gives him a right to demand that any works being done by a third person claiming to act under such resolution be arrested, and those done, destroyed.

Now, having reached, as the court has, the conclusion that were defendant, the Royal Company, without any pretence of a resolution or contract authorizing them so to do, placing their poles and wires in the streets of Maisonneuve, plaintiff would have no right to restrain them by injunction, it would be an extraordinary position if he should have greater rights against a party acting under, at all events, the color of right given him by a resolution and a contract, both binding on the municipality till annulled, than he would have had against a person acting without any pretence of right and in open defiance of municipal authority.

This is a conclusion which it is impossible to arrive at, and yet it is the logical consequence of adopting the position in this respect contended for by plaintiff.