

In rendering the judgment Caron, J., (p. 62) says: "Les autorités additionnelles produites depuis que la cause est en délibéré et surtout la décision de *Brown v. Gogy* me font croire que les demandeurs n'avaient pas l'action qu'ils ont portée; que ne souffrant personnellement pas autrement que le reste du public, c'était à l'autorité chargée de défendre les droits de ce public à prendre les démarches nécessaires pour le protéger des empiètements qui pouvaient être commis à son préjudice."

And Badgley, J., concurring, says, (p. 64) (after expressing a strong opinion that had it not been for the effect of the municipal law vesting the roads in the municipal corporation, such an action might have been taken as a popular action by a private individual,) "but the municipal law has taken its street authority into the power of the municipality alone, and the popular action can no longer avail to individuals; they may compel the municipal authorities to enforce the removal of encroachments on the public thoroughfare, but they cannot, any longer, themselves enforce the removal." The main *considérant* of the judgment rests on the absence of right in an individual to bring an action of this kind.

In *Bell v. The Corporation of Quebec*, 7 Q.L.R., p. 103, another case of an obstruction in an alleged navigable river, their Lordships of the Privy Council reaffirm the doctrine laid down in *Brown v. Gogy*, and after assimilating the position of riparian proprietors on a navigable river to that of proprietors of land adjoining a highway, hold that no action lies by such a proprietor for the removal of obstructions in such navigable river, in the absence of proof of special damage.

The doctrine seems likewise to be fully recognized as being in accordance as well with English law, as with our own by the different text-books on the subject of injunctions.

It would seem from these decisions abundantly clear that an individual showing himself to suffer no greater injury from an obstruction to the public highway than that common to the public generally, has no right of action to cause the removal of such obstruction, or the abatement of the nuisance thereby created. And there seems to be no good reason for holding that what he would not have a right to cause to be removed if placed on the public property, he has a right to prevent being placed there.