

if he disobeys the orders of his superior officer, the question whether they were unlawful as having commanded something not reasonably necessary would have to be decided by court-martial. Sir Fitzjames Stephen thus proposes to meet this difficulty: "The only line," he writes, "that presents itself to my mind is that a soldier would be protected by orders for which he might reasonably believe his officer to have good grounds. The inconvenience of being subject to two jurisdictions, the sympathies of which are not unlikely to be opposed to each other, is an inevitable consequence of the double necessity of preserving, on the one hand, the supremacy of the law and, on the other, the discipline of the army."—*Law Times*.

EXECUTION OF WORKS AUTHORISED BY STATUTE.

Where damage results from the execution of works authorised by the legislature to be done, the remedy is not by an action at law, but is under the statute which legalises what would otherwise be a wrong: (see *Mersey Docks and Harbour Board v. Gibbs*, 14 L.T. Rep. 677; L. Rep. 1 E. & I App. 93, at p. 112; and *Hammersmith and City Railway Company v. Brand*, 21 L.T. Rep. 238; L. Rep. 4 E. & I. App. 171, at p. 215). The general rule thus enunciated by Mr. Justice Blackburn and Lord Cairns respectively in those two cases is only applicable, however, to works carefully and skillfully executed. Should proper care and skill be lacking on the part of the persons by whom any work is executed, such negligence will give rise to an action for damages. The wide provisions of section 308 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), and the absence of all reference therein to negligence or unreasonableness, might lead one to suppose that a person damnified by the exercise of any of the powers of that Act would not be put to the necessity of shewing that the work done was improperly performed in order to entitle him to recover compensation. And such was the view sought to be maintained before the Divisional Court in the recent case of *Lingke v. Christchurch Corporation* (106 L.T. Rep. 376). Mr. Justice Darling, indeed, admitted that, if it had not been for the authorities which were cited to the Court,