& Reburn, confirmed 26th November, 1884, (1) is a recent example.

In support of the jurisprudence it may be said that it requires express words to take away the jurisdiction of the courts of common law, for it is an elementary principle of policy as of law that the courts decide as to every legal relation. Now there are no such express words in art. 100, which sets up the special procedure; and art. 461 only refers back to that procedure.

Being a good common law action, I see nothing to prevent the corporation being condemned in damages of a merely nominal amount, for an improper use of its authority. Art. 706 M. C. does not affect the question. The damages of $20 are estimated as those arising from the *mise en vigueur du règlement*, which was not really suspended, but only part of its effects suspended till the accomplishment of a certain thing.

The serious question of the case is the right to interfere with the discretion of the county council. The power conferred on that body either by resolution or by *procès-verbal* is to declare that any road under the direction of a local municipal council shall thereafter be under the direction of the county council. (Art. 758, C. M.) Does this authorize a county council to declare a road a county road simply for the purpose of abolishing it; in other words, can a county council use its powers in fraud of the purpose of the law? I am inclined to agree with what Mr. Justice Andrews said in this case, and also with the views expressed by Chief Justice Meredith in the case of *Bothwell & West Wickam.*(2) Although that case was decided on other grounds, the learned Chief Justice remarked severely upon the extraordinary nature of the powers conferred on corporations, and pointed out the necessity of restraining them within certain limits. But the question is not a new one. Anciently corporations were frequently granted immense powers, or they used the powers inherent in them in an unreasonable way, and contrary to the public good, for which alone the privileges were granted, and the courts interfered, and laid down rules to check these extravagances. One of the most salutary of these rules is that a by-law must be reasonable, and a by-law not reasonable in any respect, will be void. 2 Comyns Vo. By-law, p. 163. And Coke says:—Every by-law must be *legi, fidei, rationi consona*, 8 R. 126; and if it appears to the court to be, it is sufficient, though it be not averred to be so by the pleadings. *Ib.* 126 *b.*

I have quoted English law on this subject, for it, I think, determines the point. Municipal institutions, such as those we have, are derived from the English law, and our courts have the general prerogatives of English courts. These last are derived from the authority of the Sovereign, and as the administration of justice is one of the greater rights of the Crown it is governed by the public law of the empire. This cannot now be questioned, for though the power of the Court of King's Bench to decide civil cases was co-extensive with that of the *prevoté, justice royale, intendant* or superior council, any legislative power possessed by any court prior to the year 1779 only being denied to them (34 Geo. III, 5, 8,) there can be little question that the general authority of the Court of King's Bench in England was exercised by the Court of King's Bench here so soon as it was established by the 17 Geo. III. But in the 4th year of the Queen's reign, an ordinance of the special council (ch. 45, sect. 39), ordained and enacted "That courts and magistrates, and all other persons, bodies politic and corporate within this Province of Lower Canada, shall be subject to the superintending and reforming power, order and control of the said Court of Queen's Bench, and of the Justices thereof, in such sort, manner and form as courts and magistrates, and other persons, bodies politic and corporate, of and in the aforesaid part of Great Britain called England, are by law subject to the superintending and reforming power, order and control of the Court of Queen's Bench in the said part of Great Britain called England, and the Justices thereof in term or in vacation." When in 1849 Sir Louis Lafontaine re-organized the judicial system by making the Court of Queen's Bench the chief court of original jurisdiction in criminal matters, and only a court of appeal and error in civil mat-

(1) M.L.R., 1 Q. B. 200.
(2) 6 Q. L. R. 45.