

been no dedication to the public: *Bedford v. Hynes*, 7 U. C. R. 464; *Regina v. Chorley*, 12 Q. B. 515; *Regina v. Rankin*, 16 U. C. R. 304; *Dunlop v. Township of York*, 16 Gr. 216; *Poole v. Huskisson*, 11 M. & W. 827. But we are of opinion that the plaintiff Scott, without the assistance of the Attorney-General, is entitled to restrain defendant from erecting the platform in question upon any part of the land set apart for the lane, and to a mandatory order for its removal. If a portion of the lane had become a highway by dedication, the Attorney-General, upon the relation of Scott, would have been entitled to an order for its removal as a nuisance, even although it did not constitute an actual obstruction to the public user: *Attorney-General v. Shrewsbury and Kingsland Bridge Co.*, 21 Ch. D. 752.

The Attorney-General wrote a letter to Scott's solicitors in which he expressed his willingness "that the Attorney-General should be added as a party plaintiff if at the trial the presiding Judge should be of opinion that it was necessary." This was not a fiat nor a consent justifying the addition of the Attorney-General as a plaintiff.

Appeal allowed and plaintiff Scott declared entitled to an injunction to restrain defendants from building or encroaching or in any way trespassing upon the lane, and to a mandatory order directing them within one month to remove the platform and to replace the soil of the lane in its former condition, or in default that plaintiff may do so at the expense of defendants. Reference (if necessary) to local Master at Sandwich to ascertain amount of such expense. Defendants to pay plaintiff's costs to the trial and costs of appeal. Further directions and subsequent costs reserved (in case of a reference) until after report. Cross-appeal to increase defendants' damages dismissed with costs.

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FEBRUARY 9TH, 1903.

C.A.

BREWER v. LAKE ERIE AND DETROIT RIVER  
R. W. CO.

*Railway—Injury to Person Crossing Track—Negligence—Question for Jury—Liability of Company—Evidence of Operating Train on Line of other Company—Subsequent Amalgamation—Name of Amalgamated Company—Revivor—Damages for Personal Injuries—Reduction on Appeal.*

Appeal by defendants from judgment of FERGUSON, J., in favour of plaintiff in an action to recover damages for injuries alleged to have been sustained by him while driving