

ville was proceeding under the authority of the same Superior Court which has granted the writ.

Sir A. A. DONON, C.J. The Council of Iberville resolved to open two streets to the river. These two streets would run across a property belonging to the heirs Jones. After proceedings in expropriation were adopted the heirs Jones came in and obtained a writ of prohibition, to restrain the Corporation from proceeding with the expropriation. The petitioners said: we have a privilege for our toll bridge. The bridge abuts on the lot of land in question, and the streets you wish to open pass over property absolutely necessary for the management of our bridge. The Court below held that one of the proposed streets, passing quite close to the bridge, interfered with property necessary for the repairing of the bridge, and that the other street did not affect the respondents' rights, and the writ of prohibition was maintained as to the former and rejected as to the latter property. The question has been expressly raised by the Corporation that no writ of prohibition existed in such a case; that they were not a Court of justice, and were not amenable to prohibition. Secondly, it was contended that the Corporation are authorized by law to take property wherever it is required for the purpose of opening streets, and that they are not bound to respect the right of Jones. I think it is a principle that general words in a subsequent law do not repeal a special provision in a prior law; if a privilege has been given by law, that privilege can only be taken away by express words. Jones having got the right to construct a bridge, and to use the land necessary for its repair and management, that right cannot be taken away by any general words in a subsequent Act. It has been so held in several cases in England, and it is in accordance with reason. Therefore we say that the Corporation had no right to open a street which interfered with the respondents' bridge. The Court below held that one of the proposed extensions interfered with the bridge property, and the prohibition was maintained as to that. I am inclined to think that neither property is absolutely necessary, though it is a convenience. However, we shall not disturb the judgment as to this. As to the writ of prohibition, I think, as I have said in a previous

case to day, * that the writ of prohibition does not lie to prevent a corporation from opening a street, or from receiving a tax; but I shall not enter a dissent in this case. The judgment is, therefore, confirmed.

RAMSAY, J. It is said in this case that prohibition won't lie because the appellants were acting under the authority of the Superior Court. This ground is untenable, the appellants are not acting under the authority of the Superior Court in the exercise of their rights. The order of the Superior Court applies solely to the appointment of an arbitrator. The proceeding is really more in the nature of an injunction, but with us the name is of no importance.

The other questions are whether the ground sought to be expropriated is covered by the charter, and whether the statute overrides the charter. The second clause of the charter is not drawn with precision. It reads as though to the right to take land on both sides of the river for the purposes of the bridge were joined the right to prepare the materials for making and repairing the bridge on the land so taken. Of course this cannot be the meaning, and in fact the owners of the bridge at once obtained the land from which it is sought to expropriate them, and they have ever since kept it for the purposes of the bridge. Under these circumstances, I think, the charter to respondents ought to be interpreted so as to cover the land in question. If so read the only question that remains is whether the charter of the municipal corporation over-rides that of the respondents. The municipality has a general power to take lands for roads, but this does not oust respondents of their special franchise which has an object exactly similar to that of the municipal corporation. It is not then to be presumed that the legislature intended to destroy or render precarious the earlier corporation by the creation of the second.

I would therefore confirm.

Judgment confirmed.

Charland & Paradis,
Barnard, Monk & Beauchamp, } for appellants.

J. G. Macdonald,
Davidson, Monk & Cross, } for respondents.

* See preceding case.