

Lord Holt, (a) would furnish a cause of action; there being several others having a right of way, or several others having a right of wharfage, could make no difference. All are not injured in the same way. The public is affected because a common highway has been injured; this is the general damage. But the plaintiff's injury is special, his easement has been destroyed, the profits resulting from it are gone. He had a *particular right*, the right to take wharfage; all were not injured in this way; it was only those who held wharves, and there being several of these, cannot affect the principle. Suppose a highway obstructed by a ditch, and that ten men in succession fall into it, each may have his action, because the damage is special and particular, and the number who suffer in this way will not affect the right to recover, their injury being different from that which is inflicted on the public generally.

There is nothing, then, in the character of the injury itself, or in the character of the right, which forbids redress at law.

Does the peculiar character of the defendants, or the relation in which they stand to the public, prevent the interference of a court of justice?

The corporation is certainly an emanation of legislative power. It is established to subserve the interests of the corporators, and for their peculiar advantage and benefit. It is not like the case of individuals who are *gratuitously* called on to render service to the public, and where policy would, according to the English doctrine, seem to demand an exemption from damages, in order that great public works devised by the legislature for the public benefit, should not be defeated by the fear on the part of such gratuitous agents of injury to their private estate, from proceeding to fulfil the laws; but it is the case of corporations being sued, who suffer nothing personally, but in their corporate capacity, and who are called on to pay only for an injury which they have inflicted for their own benefit; or, in the language of the learned counsel, it is the case of a suit against the inhabitants of the city, to recover from them damages for injuries inflicted by their servants, the mayor and city council, to subserve the interests of the whole city, and for their benefit as inhabitants. Viewing it in this light, it would be precisely such a case as the maxim, *Respondeat*

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(a) Iveson v. Moore, 1 Salkeld, 16.