

the city by the express terms of the charter is made the conservator of the water of the harbour and has the sole power of amending and improving the same for the more convenient, safe and easy navigating, anchoring, riding and fastening the shipping resorting to the city; and for the better regulating and ordering the same, the city shall and may, as it shall see proper, erect and build such and so many piers and wharves into the river and for the loading and unloading of goods as for the making docks and slips for the purposes aforesaid, so always as such piers or wharves so to be erected do not extend to the taking away of any person's right or property, without his, her or their consent, or by some known law of the said province of New Brunswick or by the law of the land. Without the authority of the city the erection of a wharf such as the defendants are constructing would be altogether illegal and the structure would be an obstruction to the public navigation and removable by the city authorities as a nuisance: *Brown v. Reed*, 2 Pug. 206; *Eagles v. Merritt*, 2 Allen 550.

That a private individual may have rights in public navigable waters beyond his rights as one of the public is settled by *Lyon v. Wardens of the Fishmongers Co.*, 1 A. C. 662. The question arose between two riparian owners on the Thames, the control of which is vested in a board of conservators who are given powers similar in many respects in reference to that river to those given by the city charter to the city in reference to the harbour. One of these riparian proprietors was proceeding under a license from the conservators to erect an embankment in front of a wharf on a portion of the property of the other, the effect of which would have been to take away his access to the river at that point. The license was granted in pursuance of section 53 of the Thames Conservancy Act, which provides as follows:—"It shall be lawful for the conservators to grant to the owner or occupier of any land fronting and immediately adjoining the river Thames a license to make any dock, basin, pier, jetty, wharf, quay, or embankment, wall or other work, immediately in front of his land, and into the body of the said river, upon payment of such fair and reasonable consideration as is by this Act directed, and under and subject to such other conditions and restrictions as the conservators shall think fit to impose." Speaking of this section, Lord Cairns says: "My Lords, it is to be observed that the power granted by the 53rd section to the