

**Province of New Brunswick.****SUPREME COURT.**

Barker, J.]      CITY OF SAINT JOHN V. BARKER.      [Oct. 12.

*Riparian owners—Water rights—Pollution of water—Proof of damage—Act of Legislature.*

The pollution of a river by a riparian owner will be enjoined at the instance of a riparian owner lower down without proof of actual damage.

Generally speaking, one not a riparian owner is not entitled to complain of the pollution of a river, and a grant or license from a riparian owner to use the water does not entitle the grantee or licensee to complain of its pollution by another riparian owner.

Where plaintiff, though not a riparian owner, was authorized by Act to take a specified quantity of water per day from a lake for, among other purposes, the domestic use of its citizens, it was held that it was entitled to enjoin the pollution of the lake by a riparian owner, and without proof of actual damage.

C. N. Skinner, K.C. for plaintiffs. H. A. McKeown, K.C., for defendant.

Barker, J.]      [Oct. 12.

BARNHILL V. HAMPTON & ST. MARTIN'S RY. CO.

*Railway—Mortgage—Lien—Priorities.*

By the Railway Act, 1888 (D.) a lien for working expenditure is given upon the rents and revenues of a railway company in priority to a mortgage previously made charging the company's property, including its rents and revenues. By the Railway Act, 1903 (D.), the lien is enlarged to apply to the property and assets of the company in addition to its rents and revenues.

*Held*, that the Act of 1903 not being retroactive a lien for