

*Per Gwynne, J.*—The beds of great lakes, rivers forming the boundary between Canada and the United States or between two Provinces, rivers navigable above tide waters, rivers to the extent to which tide waters reach Dominion sea-coasts, and provincial lakes and rivers not granted before Confederation, are subject to the jurisdiction and control of the Dominion Parliament so far as required for creating future harbours, erecting beacons or other public works for the benefit of Canada under B. N. A. Act, s. 92, item 10, and for the administration of the Fisheries.

R. S. C., c. 92, "An Act respecting certain works constructed in or over navigable rivers," is *intra vires* of the Dominion Parliament.

*Per Strong, C.J., and King J.*—A province may grant land extending into a lake or river for the purpose of there being built thereon a wharf, warehouse or the like, and the grantee may build thereon subject to compliance with R. S. C., c. 92, and to his obtaining an Order-in-Council from the Dominion Government authorizing the work, provided it does not interfere with the navigation of such lake or river.

Riparian proprietors before Confederation had an exclusive right of fishing in non-navigable, and in navigable non-tidal, lakes, rivers, streams and waters, the beds of which had been granted to them by the Crown. The right of fishing is an incident of the property in the soil. *Robertson v. The Queen* (6 Can. S. C. R. 52) followed.

The Dominion Parliament cannot authorize the giving by lease, license or otherwise the right of fishing in non-navigable waters nor in navigable waters the beds and banks of which are assigned to the Provinces under the B. N. A. Act. The legislative authority of Parliament under s. 91, item 12, is confined to the regulation and conservation of sea-coast and inland fisheries under which it may require that no person shall fish in public waters without a license from the Department of Marine and Fisheries; may impose fees for such license and prohibit all fishing without it; and may prohibit particular classes, such as foreigners, unconditionally from fishing. The license as required will, however, be merely personal conferring qualification, and can give no exclusive right to fish in a particular locality.

The rule that riparian proprietors own *ad medium filum aque* does not apply in case of the great lakes or navigable rivers.