In Wood v. Esson, Esson's wharf adjoined Wood's, and Esson was adding an extension to his wharf driving in piles (within the limits of his water lot grant), but in a place which prevented ships from having access to Wood's wharf. The line of steamers coming there could not get in. So Wood, with one of the steamships, proceeded to draw these piles, and Esson brought the action.

It appears from the judgments that the learned Judges held that the piles would be an obstruction to navigation under the circumstances, and that Wood having a particular damage might abate it, as a nuisance. The judgment might have been unquestionably put on the ground that Wood had a right to abate it, because it interfered with the access from the sea to Wood's premises. And as a fact, that was all that the plea and the ground in the rule for a new trial justified.

In Lyon v. Fishmongers Company, 1 App. Cas. 671, Lord Cairns, L.C., says:

"Unquestionably the owner of a wharf on the river bank has, like every other subject in the realm, the right of navigating the river as one of the public. But when this right of navigation is connected with an exclusive access to and from a particular wharf, it assumes a very different character. It ceases to be a right held in common with the rest of the public, for other members of the public have no access to or from the river at that particular place, and it becomes a form of enjoyment of the land and of the river in connection with the land, the disturbance of which may be vindicated in damages by an action or restrained by injunction."

And later on he quotes from Lord Hatherley's judgment in Attorney-General v. The Conservators of the Thames, 1 H. & M. 1, where he says, referring to Rose v. Groves, 5 M. & G. 613:

"As I understand the judgment in that case, it went not upon the ground of public nuisance accompanied by particular damage to the plaintiff, but upon the principle that a private right of the plaintiff had been interfered with."

However, I must concede that some of the judgments do not put it upon the ground of private injury, but as a public nuisance with particular injury to Wood, and of course I do not question it. But the facts of that case are different from the facts in this one.

As to the power to grant water lots, the right in that case was not questioned.