

The precise nature of this right of access has come up for discussion in many cases in reference to compensation to be paid by railway and other companies vested with the power of expropriating private lands. The statutes under which the compensation was claimed are not all alike, but in all the right of access both by land and water has been held an injury to the property which must be paid for. *The Duke of Buccleuch v. Metropolitan Board of Works*, L. R. 5 H. L. 418; *The Metropolitan Board of Works v. McCarthy*, L. R. 7 H. L. 243; *North Shore Railway Co., v. Pion*, 14 A. C. 612.

It was held in the *Lyons v. Fishmongers* case that the right of access which was sought to be taken away was a right within the saving clause in the Thames Conservancy Act, and therefore the Conservancy authorities had no power to license the building of the embankment. On this point Lord Cairns says: "It appears to me impossible to say that a mode of enjoyment of land on the bank of a navigable river which is thus valuable, and as to which a landowner can thus protect himself against disturbance, is otherwise than a right or claim to which the owner of land on the bank of the river is by law entitled within the meaning of such a saving clause as that which I have read." Section 179 of the Thames Act which is there referred to is as follows: "None of the powers by this Act conferred, or anything in this Act contained, shall extend to take away, alter, or abridge, any right, claim, privilege, franchise, exemption, or immunity to which any owner or occupier of any lands, tenements, or hereditaments on the banks of the river, &c." The saving clause in the charter of the city is—"so always as such piers or wharves so to be erected or streets so to be laid out, do not extend to the taking away of any person's right or property, without his, her or their consent, or by some known laws of the said province of New Brunswick or by the law of the land." In reference to the saving clause in the Thames Act, Lord Selborne says: "That a public body, such as the Thames Conservancy Board, should be empowered by Parliament to sell, for money, to private persons, the right to execute, for their own benefit, works injuriously affecting the land of an adjoining proprietor without compensating him for that injury (which is the contention of the respondents) is inconsistent with the ordinary principles and with the general course of public legislation on such subjects. When, therefore, we find in the Act which