

"In the present case there was not a doubt that the New Brunswick Legislature had acted within its jurisdiction, and that the Act was constitutionally legal, and could not be impugned on that ground.

"On the second ground which he had mentioned in which he considered the Dominion Government could interfere, it could not be held that the Act in any way prejudicially affected the whole Dominion, because it was a law settling the common school system of the Province of New Brunswick alone.

"The Government of the Dominion could not act, and they would have been guilty of a violent breach of the constitution if, because they held a different opinion, they should set up their judgment against the solemn decision of a Province in a matter entirely within the control of that Province."

PROVINCIAL RIGHTS INVADED.

It is quite clear that the disallowance of the "Streams Bill," as it is usually called, was a great outrage upon the right of the Provinces to self-government :

1. Because the Bill was admittedly within the competence of the Provincial Legislature.

2. It did not "take one man's property and give it to another" in the sense alleged of confiscating McLaren's property ; on the contrary, it provided compensation based on the value of the improvements made, the cost of maintaining such work, the interest upon the investment, and all other just considerations.

3. Even if the Bill had been an invasion of private rights, it was not competent for the Dominion Government to disallow it, on the basis laid down by Sir John Macdonald himself, and according to the many precedents of the Department of Justice during the last fifteen years.

4. Although the Act had interfered with the decision of a court of competent jurisdiction, yet that circumstance would not bring it within the class of cases stated by Sir John Macdonald in 1868, as those in regard to which the prerogative of disallowance should be exercised. But since the disallowance the Court of Appeal has reversed the judgment of the Court of Chancery, and held that McLaren never had any right to the use of the stream, except such as was given to the whole world. The judgment of the Court of Appeal contains the following statement :

"Having reached the conclusion that all streams are by public authority dedicated as highways to at least the extent essential to the defence in this action, I have only further to remark that when the obstruction which stood in the way of the enjoyment of the legal right is removed, when the traveller by land, or lumberer seeking to float his lumber down a stream, finds the highway unobstructed, he is at liberty, in my judgment, to make use of it without inquiring by whom, or with what motive, the way has been made practicable. He finds the rock on the road allowance blasted, or the chasm that crossed it bridged, and he pursues his journey along the highway thus improved ; or he finds that the freshet covers all obstacles with a sufficient depth of water, and he floats his logs down the highway thus made useful. It may be in appearance and perhaps in reality rather hard on the man at whose expense what was a highway only in legal contemplation becomes one fit for profitable use, that he has to allow others to share in the advantage without contributing to the cost. That is, however, a matter for his own consideration when he makes the improvement."

WERE LIKE BILLS DISALLOWED BY LIBERALS ?

But it is said that during the Liberal Administration, like bills were disallowed, and that the Liberal party have no right to complain