

navigable portion of the river; and it is because it is to be continued over that small portion of the navigable portion of the river that the Bill is introduced to our attention, I presume.

Mr. MOUSSEAU. It is on that account.

Mr. BLAKE. There is a great mass of legislation which has taken place upon parallel subjects, particularly, I think, in the Province of New Brunswick and also in Nova Scotia. There have been a great number of Acts passed by Local Legislatures for regulating the floating of wood down streams and rivers, both navigable and non-navigable. A question arises as to the jurisdiction of the Local Legislatures to pass those Acts in so far as their provisions interfere with the navigation of rivers, but not otherwise. It is, to my mind, questionable whether it would not be better, inasmuch as the Bill is not supposed to interfere seriously with the navigation of rivers, to leave Local Legislatures to deal with those cases, subject to the observation that any Act they pass which obstructs the navigation of rivers will, of course, be beyond their powers. But if it is proposed to legislate here, I think the clause of the Bill that proposes to confirm an Act of a Provincial Legislature, in fact to re-enact it by reference, is very objectionable. It seems to me that if we are to legislate, we ought to legislate ourselves, and not to legislate by confirming any previous Act. Every clause of the Bill may be correct in the sense that it will be proper to make it law; but if it be proper to make it law, it ought to be made law by our enacting the provisions of our own authority, of course retaining power to alter and amend the provisions. It is an inconvenient practice, to say no more, that we should confirm Acts of the Local Legislatures, and so be obliged, in order to find out what the law of Canada, is to search among the Acts of the Local Legislatures for the Act that has been confirmed by the Dominion Parliament, in order to find out what the law is. In point of form, if not in substance, we ought to have before us all the Bills which we propose to enact. There are several other provisions which rather come within the sphere of the Local Legislatures than of this Parliament, and it would be very much better, I think, that the hon. the Minister of Justice, who is responsible for the consideration of these questions, should, if he has not considered the Bill, consider it before another stage is taken. The general cast of the Bill and several of its provisions seem to be equally objectionable.

Mr. BOURBEAU. Mr. Speaker, I beg leave to say a few words in support of the Bill of my hon. friend, the member for Yamaska (Mr. Vanasse). It is well known that the St. Francis River is one of the most important rivers in the Province of Quebec, and upon which a great quantity of wood is cut. All the different kinds of wood that are in the trade are floated on this river; a great many wood dealers are engaged in the trade, and as my hon. friend, the member for Yamaska, has explained, it happens that this wood gets mixed while going down the river, and when it reaches the navigable part of the river, where the boats come to get the wood, if there is no law to prevent difficulties, the mixing of the wood often causes difficulties that bring on law suits. The Bill that is now before the House provides for the settlement of these difficulties, and I think that this honorable House should take the Bill into consideration and support it. As I have already stated the St. Francis River is one of the largest rivers in the Province of Quebec, and upon which there is a considerable trade in wood, and by passing the Bill proposed by my hon. friend, the House would be rendering a service to this hon. member and also a great number of wood merchants who are interested in this trade, and who reside in the Province of Quebec. And it should not be forgotten that this river flows through a large territory—I might mention the

counties of Wolfe, Richmond, Drummond, and Yamaska. This river flows through all those counties. It is, Sir, a very considerable river, and for a long time back difficulties have been arising among those engaged in the wood trade. I think it is time to adopt some wise means of coming to their assistance. Thus, for these reasons, I trust the Bill introduced by the hon. member for Yamaska will be adopted, and I shall vote for its second reading.

Sir ALBERT J. SMITH. There are several provisions of the Bill which are *ultra vires*.

Mr. McDONALD (Pictou). The mover of the Bill, as well as the hon. the President of the Council, submitted this measure to me before it came on for second reading, and I therefore had an opportunity of considering it. I have arrived at the conclusion that so far as the question of jurisdiction is concerned there is no difficulty. I understand the objection of the leader of the Opposition to be to the form of confirming the Act of a Local Legislature, and there may, as a mere matter of form, be something in that; but after all, so far as regards substance and the effect it would have on the legislation of this House are concerned, there is no difficulty whatever. The phraseology is as follows:—

“The said Act of the Province of Quebec, 40 Vict., Chap. 67, intituled ‘An Act to regulate the floating of cordwood in the innavigable portion of the River St. Francis,’ is confirmed in so far as the powers of the Parliament of Canada extend in the matter, and all the provisions of the said Act, within the purview of the powers thereof, shall have the same force and effect as if the said Act had been passed by the Parliament of Canada.”

Sir ALBERT J. SMITH. Is the local Act confined to the non-navigable portion of the river?

Mr. McDONALD. My hon. friend will see my view as I proceed. I quite agree with the leader of the Opposition, that so far as giving force and effect to an Act of the Quebec Legislature, by re-enacting it, it is unnecessary, because if it possessed the jurisdiction to pass the Act referred to, then the Act will take its power from the jurisdiction of the Legislature of Quebec, and not from any authority which we pretend to give it. If they had no authority to make the enactment, our action would not, so far as they are concerned, give any additional power, as we do not pretend to confirm it, except in so far as it may have involved control possessed by the Dominion Parliament. Then the only question is, whether the Dominion Parliament has the jurisdiction which they are asked to exercise by this Bill. It appears to me that it turns on the question whether the words “navigable water of that river,” which I understand is a large and important river flowing into the St. Lawrence, throw the jurisdiction on this Parliament or the Local Legislature. Under the Common Law the word “navigable” means the waters of any river, to the extent to which the tide ascends and affects the current of the river. It has been decided by the Ontario and Quebec Courts, and confirmed by the Supreme Courts, that so far as regards the St. Lawrence and the large rivers running into it, that the word “navigable” is not restricted in that sense in the old Province of Canada, where the old civil law jurisdiction still prevails to a large extent, but is used in the ordinary sense of the word. I understand, from the mover of the Bill, that the portion of the river which will be affected by the Bill is of that character and description; and, therefore, if I am correct in the definition and in the enlarged purview of the word “navigable,” which prevails with respect to those rivers, this Bill will be entirely within the competence and jurisdiction of this Parliament, and not within the competence of the Provincial Legislature. So far as I have read the Bill and understand the locality, I do not see how the rights sought to be given by this Bill would affect any public or general right of navigation which prevails on that river.