the Streams Bill, the consensus of opinion being that in regard to legislation which was claimed to be unconstitutional, the proper course for the Government to adopt was to let the measure go into operation, and leave those affected by it to contest its constitutionality before the courts. I commend to this House the opinion expressed by the hon. member for West Durham upon that question, and I think hon. gentlemen opposite will hardly dissent from it. It is a proposition which, I think, was well conceived, and which, though perhaps not accepted by the House at the time, was in entire accord with the views laid down in 1868 by the right hon leader of the Government. The hon. member for West Durham said :

"Can any member of this House, who is a real, live lover of the Federal system, find any possible objection to this proposition ? Where the law and the general interests of the Dominion imperatively demand it, then and then only shall the power of disallowance be exercised ; but it would impair the Federal principle and injuriously affect the autonomy of the institutions of our several Provinces were this power to be exercised on subjects which are within the exclusive control of the Local Legislatures on the ground that in the opinion of His Excellency's advisers, or of the Canadian Parliament, any such legislation is wrong. * * I admit that, under the constitution of Canada and the Provinces, the Local Legislatures have the power to deprive the subject of his property under these conditions, but I say that if we import into the Constitution of the Confederation a restriction upon that power and declare it, as a majority in this House propose this night to declare, we will declare it to be the right and duty of the Government, whenever the power is to be exercised, to nullify its exercise by disallowing such Acts."

On that occasion the Government declared that the Act should be disallowed, on the ground that it interfered with private rights; but the general principle laid down was that in all matters of unconstitutionality, the courts should be invoked and nobody else. We have also a case almost in point in this country, the case of the New Brunswick School Law. When that case arose, members of Parliament who were versed in constitutional law expressed opinions which would be entirely in accord with the action taken by the Government of the day. That school law was one to compel the Roman Catholics of New Brunswick to contribute to a system of education which they could not conscientiously avail themselves of. It was a law which affected a large class of the community, and which that class contended interfered with its rights. That Bill was allowed to go into operation, and was not interfered with by the Dominion Government for reasons given by the First Minister, who says :

"The Provincial Legislature has exclusive powers to make laws in relation to education. It may be that the Act in question may act unfavorably on the Catholics or other religious denominations, and if so it is for such religious bodies to appeal to the Provincial Legislature which has the sole power to grant redress.

"The assumption by the Provincial Legislature and Government of Canada of the right to seek the imposition of further limitations of the powers of the Provincial Parliaments is subversive of the Federal character of the Union, tending to the destruction of the powers and independence of the provincial law to the centralisation of all power in the Parliament of Canada.

"The people of New Brunswick cannot, and will not, surrender their rights of self-government within the limits of the constitution."

He went on further to say :

"In the case of measures not coming within either of these categories the Government would be unwarranted in interfering with local legislation.

"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 hold a different opinion, they should set up their judgments against the solemn decision of a Province in a manner entirely within the control of that Province."

There is the decision of the First Minister, entirely in accord with that of Mr. Justice Taschereau. Judge Taschereau adopts almost the very language of the First Minister in the case I have referred to, the Queen *vs.* Severn. It seems to me that, that case is on all fours with the case before the House. The hon. the Minister of Inland Revenue (Mr. Costigan) moved the following resolution in this House in 1872:—

"That the Local Legislature of New Brunswick in its last Session, in 1871, adopted a law respecting Common Schools forbidding of any religious education to pupils, and that that prohibition is opposed to the sentiments of the entire population of the Dominion in general and to the religious convictions of the Roman Catholic population in particular ;—That the Roman Catholics of New Brunswick cannot, without acting unconscientiously, send their children to schools established under the law in question and are yet compelled like the remainder of the population, to pay taxes to be devoted to the maintenance of those schools ;—That the said law is unjust, and causes much uneasiness among the Roman Catholic population in general disseminated throughout the whole Dominion of Canada, and that such a state of affairs may prove the cause of disastrous results to all the Confederated Provinces ;—and praying His Excellency in consequence at the earliest possible period to disallow the said New Brunswick School Law ;

In that debate the whole question was thoroughly discussed The *Globe* thus commented on it:

"The question so far was exclusively a local one, and it would have been well if it could have been fought out and settled in New Brunswick, as it was in past years in Ontario and Quebec. But the Catholic minority determined to make an appeal to the Dominion Parliament, on the ground that by the Confederation Act they were secured in the rights which they allege have now been taken away."

The hon. member for West Durham (Mr. Blake) moved in amendment to that resolution of Mr. Costigan, declaring that it was expedient that the opinion of the law officers of the Crown should be taken :

"That this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick, as to remove any just grounds of discontent that now exist; and this House deems it expedient that the opinion of the law officers of the Crown in England, and, if possible, the opinion of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law, as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union in respect of religious education in the Common Schools with the view of ascertaining whether the case comes within the terms of the 4th sub-section of the 93rd clause of the British North America Act, 1867, which authorises the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act."

You see, therefore, the opinion of the hon. member for West Durham (Mr. Blake) was that it was not expedient for the House to pass censure upon the Government and disallow that Bill, but on the contrary left the decision with the officers of the Crown. On 29th November, 1872, the law officers of the Crown reported as follows :—

"That we agree substantially with the opinion of the Minister of Justice of the Dominion, so far as appears from the papers before us."

Sir J. D. Coleridge and Sir G. Jessell said of it :

"Of course, it is quite possible that the new Statute of the Province may work in practice unfavorably to this or that denomination therein, and therefore to the Roman Catholics ; but we did not think that such a state of things is enough to bring into operation the restricting powers of appeal to the Governor in Council "

It seems to me that this New Brunswick case is much stronger than the one now before us. We had a minority in the Province of New Brunswick of Roman Catholics, who contended that the law passed was a great injustice to them. The First Minister said he recognised the injustice. The law officers of the Crown said the same thing when their opinion was taken in 1875, but they all agreed that the matter was of purely local concern. I would like to ask the hon. member for Muskoka (Mr. O'Brien) if the views of the Catholic minority in the Province of New Brunswick should not be respected as well as those of the Protestant minority in Quebec, which is entirely satisfied with the action of the Government. In New Brunswick the Catholics felt that their rights were unjustly dealt with, the Government law officers of the Crown were of the same opinion, and the Government here were of the same opinion,