

THE RIVERS AND STREAMS BILL.

REPORT OF THE MINISTER OF JUSTICE—REASONS FOR THE DISALLOWANCE.

The following is a copy of the report of the Minister of Justice on the River and Streams Bill:—

DEPARTMENT OF JUSTICE,
OTTAWA, May 7th, 1881.

I have the honor to report with respect to an Act passed by the Legislature of the Province of Ontario at its last session, intitled:—"An Act for protecting the public interests in rivers, streams and creeks."

Application for the disallowance of this Act has been made by Mr. Peter McLaren, of the Town of Perth, lumber manufacturer, on the ground that the Act in question deprives him of vested private rights without compensation, and practically reverses the decision of the Court of Chancery in a case brought by him against one Caldwell, whereby Mr. McLaren's exclusive right to the use of improvements erected by him or those through whom he claims on certain streams in the Province of Ontario was established by a decree of the court.

The Act by its first section declared that all persons have, and always have had, during the spring, summer, and autumn freshets the right to float and transmit saw logs, etc., down all rivers, creeks and streams, in respect of which the Legislature of Ontario has authority to give this power, and in case it may be necessary to remove any obstruction from such river, creek, or stream, or construct any apron, dam, etc., necessary to facilitate the floating of saw logs, etc., down the same, it shall be lawful for the person requiring to float down the saw logs, etc., to remove such obstruction, and to construct such apron, dam, etc.

The second section declares that in case any person shall construct, or upon such river, creek or stream any such apron, dam, etc., or shall otherwise improve the floatability of such river, creek or stream, such persons shall not have the exclusive right to the use or control thereof; but all persons shall have a right to use them, subject to the payment to the person who has made such constructions and improvements of reasonable tolls.

The third section extends the operations of sections one and two to all rivers, creeks and streams mentioned in the first section, and to all constructions and improvements made thereon, whether the bed of the river, etc., or the land through which it runs, belongs to the Crown or not.

The fourth section empowers the Lieutenant-Governor-in-Council to fix the amounts which any person entitled to tolls under the Act shall be at liberty to charge on saw-logs, etc.

The fifth section extends the previous provisions of the Act to all such constructions and improvements as may hitherto have been made, as well as to those hereafter constructed.

The sixth section gives to all persons driving saw logs, &c., down the streams, the right to go along the banks.

The seventh, and last, section declares that if any suit is now pending, the result of which will be changed by the passage of this Act, the court may order the costs of the suit to be paid by the party who would have been required to pay the costs if the Act had not been passed.

It is tolerably clear that this section refers specially to the suit of McLaren against Caldwell above referred to. It appears that Mr. McLaren is the owner of certain streams and improvements on streams which he makes use of for the purpose of floating down saw logs from the timber limits from which he takes the same for the purposes of his business as a lumber manufacturer.

Mr. Caldwell is also a lumber manufacturer owning timber limits in the neighbourhood of those owned by Mr. McLaren.

He attempted to float his logs down Mr. McLaren's streams and through his improvements. To prevent his doing so, the suit in chancery above referred to was instituted, and a decree was made declaring Mr. McLaren exclusively entitled to the use of the streams and improvements and restraining Mr. Caldwell from floating his logs down the same.

That case has been appealed to the Court of Appeal. The effect of the Act now under con-

sideration must necessarily be to reverse the decision of this suit.

Had this Act, instead of giving to any person desiring to make use of the streams the right to use the same upon payment of certain tolls absolutely expropriated the whole ownership of the streams for the public use, and provided a means of compensating the owners for the property so taken from them, it would be less objectionable in its features.

The effect of the Act as it now stands seems to be to take away the use of his property from one person and give it to another, forcing the owner practically to become a toll-keeper against his will, if he wishes to get any compensation for being thus deprived of his rights.

I think the power of the Local Legislature to take away the rights of one man and vest them in another, as is done by this Act, is exceedingly doubtful, but assuming that such right does in strictness exist, I think it devolves upon this Government to see that such powers are not exercised in flagrant violation of private rights and national justice, especially when, as in this case, in addition to interfering with the private rights in the way alluded to, the Act overrides a decision of a court of competent jurisdiction by declaring retrospectively that the law always was and is different from that laid down by the court.

In reporting upon a reserved bill of the Prince Edward Island Legislature in 1876, the then acting Minister of Justice reported to Council, and His Excellency was advised to withhold his assent from the bill, one of the grounds being that the bill was retrospective in its effect; that it dealt with the rights of the parties then in litigation, and that there was no provision saving the rights of private parties.

On the whole I think the Act should be disallowed. I recommend, therefore, that the Act passed by the Legislature of Ontario at its last session, intitled:—"An Act for Protecting the Public Interests in Rivers, Streams, and Creeks," be disallowed.

(Signed)

JAMES McDONALD,
Minister of Justice,
per J. A. M.

WHAT BURNS THE MILLS.

With the opening of the season, the saw-mill proprietor enters not only upon a period of active labor in the production of lumber, but upon a season fraught with the gravest apprehensions. He may not fear that through a low stage of water his supply of logs will be stranded upon the upper waters, or rather bars, of the river or creek upon which he has launched them; he may not fear that river pirates will snatch them from the drive, and put them upon the market before they can float within reach of his own ability to manufacture them; he may, in fact, be blessed with a boom full at the mill, and enough in a handy store boom at no great distance away to bid adieu to all apprehensions of a season's shortage; but the time of his peril as well as his profit is upon him, and from now to the close of the season he may well assert that "uneasy lies the head" of the man who owns a saw mill. If he could be about the mill through the night as well as through the day, and were he endowed with powers that did not need to seek recuperation in sleep, he could rest somewhat easy in his mind as he contemplated the risk attaching to his property, in the contemplation of the fact that his own eternal vigilance would prove the price of his safety from the danger of fire.

With the beginning of the present sawing season, come thicker and faster the reports of mills destroyed, and hopes of prosperity blasted. In fact, the number of saw mills thus far this season reported as gone up in smoke is remarkably large, and the fact calls for a more careful attention on the part of every saw mill owner, lest he too be called upon to part in an hour with the fruits of a lifetime, or at least of many years of labor.

It is not possible to point out all the causes of fire that lurk unseen around the saw mills of the country, only awaiting a favorable combination of circumstances to make known their dangerous nature, but in calling attention to a few of them it may not be impossible that others will suggest themselves to the minds of our readers,

leading to such examination of their premises as secure the adoption of safeguards which shall prove the ounce of prevention better than a pound or more of regret. Mill arches, which have stood all winter, are quite likely to settle somewhat, soon after a season's work begins, and the jar and rattle of the machinery develops the shell of weakness which has held them. Cracks in the wall to which no particular attention is paid, have proved a most serious source of danger in permitting sparks to escape upon the light dry dust which is almost certain to have accumulated upon the beams and timbers in the neighborhood of the engine room. These should not be permitted to "run a day or two longer" before having them fixed. Procrastination is not only the thief of time, but has destroyed many a good saw mill, and the only safe motto about a mill is found in the trite saying, "Never put off until to-morrow what it is needful and wise to do to-day."

Careless engineers and faithless watchmen are about the most dangerous things to be found about a mill. The former allows the sawdust to accumulate about the furnace doors or hearth, and if the truth were to be known about many a saw mill fire, it would be found to have its inception in this scattered sawdust, which ignited while the engineer had "just stepped out of the fire room for a minute." His call outside proves a most disastrous minute for the proprietor; though the resultant destruction could have been averted if the hearth had been well swept before he stepped out. Probably two-thirds of the fires which destroy saw mills in the day-time arise from this cause. It is no uncommon thing to see the engineer of a saw mill bank up his hearth doors with sawdust, when he shuts down at noon and goes to his dinner. Such an engineer is a most excellent subject for discharge from a man's employ, and if the mill does not take fire the first time he does it, the old adage about taking the pitcher to the well once too often is pretty sure to be verified before the season is over.

Night fires are more usually the result of a too implicit confidence in the watchman, than many suppose. We would not assert that all watchmen are unfaithful, but experience has proved the value of a proprietor's call at the mill at unreasonable hours of the night. If you find a wide plank or two laying across the top of your boilers, or suspiciously near to the arch, you may be pretty sure that a quiet visit to that locality in the small hours of the night, will find them occupied by a lodger whom you have paid to walk around and see that no marauders are threatening your property, and no incipient blaze is endangering its safety. It is a good thing to have an energetic man in your employ, but when you find your watchman always ready to fill an extra place during the day, and apparently able to do without sleep for an indefinite length of time, you can be almost positively sure that what sleep he dispenses with in the day-time is taken at your risk during the night. It is well to be suspicious of the faithfulness of the man who can watch all night and every night, and grow fat on it, while working half or three-quarters of the time during the day. It is at least a good plan to visit him occasionally when he least expects you, for by such visits you can often reduce the amount of your apprehension, if not the actual premium on your insurance.

The spark-catcher on your smoke stack may be all safe enough, for practical purposes; but when you find a little patch of fire here and there through the mill yard, on a hot day, it will pay handsomely to call in the boiler maker, or set your engineer at work to make the meshes smaller, or to put up a new wire screen in place of the damaged one, which will warn you some day with a hotter blaze than is healthy or profitable. Your fire pump may be a first-class one; but when you go into a mill and see a row of empty water buckets in the rack on the saw floor, you can rest assured that if a fire ever starts on these premises, the fire pump will be of very little service. Empty buckets are a pretty sure sign of lazy engineers and mill foremen, and a disabled pump. Unfortunately, when a fire starts on saw mill premises, it is usually in too much of a hurry to get through the contract it has taken in hand to allow a machinist to be sent for to put the pumps in

order, or to repair the hose which has been hanging on a peg in the wall until it is ready to drop to pieces from decay. The truism that "a stitch in time saves nine," has often been correctly rendered, "a full bucket of water saves the mill." With the record of saw mill fires daily increasing, it well becomes all who are interested in this class of property, to give the subject of its safety from fire a little of the care that is taken to obtain a full stock of logs, or an extraordinary cut by the saws. —*Northwestern Lumberman.*

COMBINATION LUMBERING.

Regarding the recent combination of lumbering interests on the Chippewa river, Wis., of which some details were given some time since, the *Minneapolis Lumberman* says: The purchase of the immense property of the Chippewa Lumber & Boom Co., by the lumbermen of Eau Claire and the Mississippi Logging Company is one of the largest transactions of the kind which ever occurred in this country. The total value of the property is \$1,496,000. The realty costing \$1,275,000 and the rest being for logs cut during the winter. A sort of syndicate has been formed between the Mississippi Logging Co. of Eau Claire by which it is intended to bring about entire harmony in all future lumbering operations on the Chippewa. The amount of property taken by the new combination including most of the property of the Chippewa Falls Co., and also certain improvement dams, etc., heretofore made by the Mississippi Logging Co., on the river above Chippewa Falls. The total property which goes into the hands of the pool is \$1,232,000, which is divided up so that 492 shares go to Eau Claire and 738 goes to the Mississippi Logging Co. The shares at Eau Claire are divided up among the companies there. The significance of the great transactions to the trade lays in the fact that it means more economical production of logs on the Chippewa river by united and harmonious action. Experience has demonstrated lumbering operations on our rivers, (especially driving,) can be much more successfully carried on under a single management, than by scores of individual operators, each bent on getting the start or advantage of his neighbors. The trouble in the latter case being that every man knows that his plan of operation is the best and the rest cannot see it.

The lumbermen of the Chippewa river have been acquiring an education in these matters, and probably have spent as much as the present investment in finding out that they could do better in a friendly pool of common interests than by struggling for the ascendancy. Hereafter there will be no more wars, or rumors of wars, on the raging Chippewa, and everybody should rejoice who lives this side of Chicago.

The Eau Claire *News* recently published the following on the same subject: It is rumored that a number of Eau Claire lumbermen have purchased two-fifths of the stock of the Chippewa Lumber & Boom Company, thus putting the control of lumbering operations on the Chippewa in the hands of one big corporation. The Chippewa Lumber & Boom Company, it will be remembered, is the owner of all the pine lands, town property, saw mills, dams, booms, etc., formerly owned by Peck & Barnard, successors to the Union Lumber Co., valued at \$1,275,000. The capital stock of this company consists of 1,230 shares of \$1,000 each. Of this amount twelve firms on the Mississippi river own \$738,000, and six Eau Claire concerns \$492,000.

Although the Boom Company is not yet fully organized, it is understood that the stock taken here is as follows:—

Empire Lumber Co., \$125,000; Eau Claire Lumber Co., \$105,000; Valley Lumber Co., \$73,000; North Western Lumber Co., \$73,000; Daniel Shaw Lumber Co., \$62,000; Badger State Lumber Co., \$50,000.

If these rumors are true, and they seem to be well founded, it looks as though it was the intention of the lumbermen to act in harmony in the future and conduct their operations in a manner to subserve their combined interests. It is easy to see that such a powerful combination will be able to control in a great measure, all the lumbering operations on the river.

The circulation of the CANADA LUMBERMAN is over 2,000 copies. Advertisers should note this.