

interest. There, however, remained a party which was not convinced, and seemed to assume that the highest form of patriotism had a local tinge. A divergence of interests, the north and the south, sprang up, first on the tariff question, and afterwards on negro slavery; the contest only ending with the civil war. And it does seem really to have ended. The national authority has gone on increasing; and now, in the light of a recent decision on the greenback question, it seems as if the general legislature could do almost anything which it is not expressly forbidden to do. In Canada, there is a degree of antagonism between the local and general authorities, which, all who wish well to the country, must deplore. If there be any desire at Ottawa, as is sometimes assumed, to supersede the local governments, that end is not to be attained by any means short of convincing the provinces that their interests would be safe in the hands of the general government. At present they are not of that opinion; and we cannot see that the number of the advocates of the local governments is diminishing.

On one question, there was a substantial agreement between the two parties, in the Ontario Assembly, in the session just closed. Both agreed that the jurisdiction of the Division Courts ought to be extended to \$400. Mr. Meredith spoke of the change as a kind of judicial decentralization. It is of course desirable to do everything to bring justice home to every man's door, and to reduce the cost of law-suits as low as possible. It would not be desirable to do anything, even in the way of reducing costs, that might tend to increase litigation. Many litigiously inclined persons are deterred from going to law from the fear of the costs; and, on a cheaper process would almost certainly cause more law to be sold than at present. But it may be doubted whether the change will really decrease the expense of suits at law where the amount involved nearly reaches \$400. Appeals have grown alarmingly numerous of late; and the proportion of people who will be content to accept as final the decision of a Division Court, when the amount is large, is perhaps not so numerous as is assumed. In this way, the cost of litigation may be increased rather than diminished.

The Rivers and Streams bill was again re-enacted. On this question, the authority of the legislature is not a subject of doubt. The objection that has been taken to the bill is, that though general in character, one incidental effect it produced was to affect a pending suit, to the prejudice of one of the parties and the benefit of the other. But for this incident, no question about the power of the legislature to pass the bill, would have arisen. The private dispute will be settled by the Privy Council; and then the Rivers and Streams question will, we suspect, cease to give trouble. In this way, the end of the difficulty may be said to be in sight.

An Act respecting railways, in Ontario, comes in response to the Federal railway bill of 1883, which brought under general control certain roads which had a local origin. These roads had been aided in their construction by Provincial and municipal subsidies. The Ontario Government takes

the ground that, since these roads have passed from local control, the subsidies granted in aid of their construction ought to be returned by the authority assuming control. In respect of one road, the Montreal, Ottawa and Occidental, it is understood that the general government agrees to recoup the Quebec government, to the extent of \$12,000 a mile. The claim, however, was put on a ground scarcely broad enough to call for a general reimbursement of subsidies. The ground was, that certain roads in Ontario had been subsidized by the general government; and this was demanded by way of set off. The general question of a return of subsidies, has not yet been touched.

Mechanics' Liens provide exceptional remedies, and not unfrequently throw responsibility on persons who have entered into no contract with the builder or his men. The right of the mechanic, who contributes labor or materials to a building, to an exceptional remedy, is assumed in this legislation. Liens attach to other things; but we think they do not attach, unless the party whose property is affected thereby, is himself the debtor. The analogy to the mechanics' lien is therefore far from complete. Lien legislation once begun is liable to be extended from the importunity of a large number of persons in possession of voting power. In presence of such a demand, both parties are equally willing to yield. This is a kind of legislation which should be indulged in, if at all, as sparingly as possible.

The License Act is a protest against what many regard as Federal encroachment. The Federal license Act of 1883, in authorizing the issue of licenses, the power to issue which is specially vested in the local legislatures, was treading on dangerous ground. Such a measure was calculated to create irritation which it would have been desirable to avoid. The Privy Council will draw the line of division between the two powers, and this question also may be expected to pass from the field of contention.

### THE TAXING POWERS OF THE PROVINCES.

In a previous article, we showed that an increase of the Federal subsidies to the provinces meant an increase of indirect rather than direct taxation. We also showed that when the present constitution of the United States was adopted, the several States surrendered to the Federal legislature, the right of levying customs and excise duties, and that they exacted in return no concessions of any kind, subsidies or other. At the same time, the States retained a concurrent power of taxation, except over Customs and excise duties.

When the Canadian confederation was formed, the general government came under an obligation to pay annual subsidies to the provinces; and the provinces in turn, were restricted to direct taxes, in supplementing the Federal subsidies. We have always been of opinion that it would have been better if an agreement could have been arrived at, to allow the provinces to raise their own revenue. But, like most things of this kind, the actual arrangement was made in the spirit of compromise. One result of granting the subsidies and confining the provinces,

for any revenue they might require in addition, to direct taxes, has been to create a constant demand for "better terms," as an increase of the subsidies is called. It is so much easier to ask the general government for money than to raise it by direct taxes.

Any one may be wise after the event, but it does seem that this result might have been foreseen. Direct taxes are easily raised in some provinces by the municipalities; but the Local government does not venture to make the plunge. In New Brunswick the municipal system has been checked in its development by the fear of asking the rural population to contribute direct taxes. Probably nothing less than some national exigency which would absorb all the customs' and excise revenue would induce the provinces to resort to the dreaded expedient of levying direct taxes.

In this state of matters what is the remedy? There is a limit to the power of the general legislature to increase subsidies, whatever might be its inclination. And the provinces refuse to supplement their revenue by the only means now open to them. What direct taxes are it is not always easy to tell. Several Provincial laws which purported to authorize direct taxes, have been judicially abrogated, on the ground that the taxes are not direct but indirect; and it is probable that others might, if tested, be similarly annulled. If the subsidies were intended to remain at their original figure, it was surely inexpedient so greatly to limit the provinces' powers of taxation. If the constant demands for better terms are to be put a stop to, it would seem to be necessary somewhat to enlarge the taxing powers of the provinces. To what objects the new powers should extend, we do not undertake to say. It would not be necessary to make them as extensive as those of the several states of the American union, unless the subsidies were, on agreement abolished; and of this we see no prospect. Some guarantees might have to be taken that this power would not be abused.

If the provinces once accepted the conclusion that, any additional revenue they might require, they must themselves provide, a great difficulty would have been overcome. That they should do so, was the intention of the powers of Confederation. But they are not inclined to raise a revenue in the only way they are allowed to do so; and it does seem worth while to consider whether there is not some such way out of the present difficulty as we have suggested.

Strong objections may, no doubt, be made to an extension of the taxing power. But are they of sufficient gravity to balance the inconvenience of the perpetually recurring demands for "better terms?" It is a choice of evils; and surely the greatest evil is that which relieves the Local Governments of a direct responsibility for an increase in their revenue over and above the amount of the Federal subsidy.

Contributions to the cost of local public works, by the Federal Government, may be regarded as an indirect augmentation of the subsidies. There is a clear distinction between two classes of public works, some having a general and national character, and others being purely local in their object and results. A public work, local in its origin, may, by new connections and extensions de-