

THE BILL GENERAL.

In looking at the various clauses of this Bill the following points are worthy of notice.

1. From clause 1 it is quite clear that the Bill applies to all streams—and the privilege of floating logs etc. down those streams are equally open to all persons, subject, of course, to the provisions of the Act.
2. By clause 2 it is declared that the mere construction of works on a stream to facilitate the passage of logs etc., does not give to the person constructing such works an exclusive right to their use. In other words the stream is regarded by law as a public highway, improvements on which does not exclude the public from the right to use it, subject to certain conditions.
3. That while the construction of works to improve the floatability of streams does not give the party so improving them an exclusive right to their use, it debars all others from using such property without paying for the privilege.
4. That the tolls to be paid for using such streams is to be regulated by the Lieutenant-Governor in Council, and in fixing such tolls, he is to take into consideration the cost of building the works, maintaining them, the interest on the outlay and such other matters as may be thought just to all parties.
5. That the logs floated through such improvements may be held as security for the payment of all such charges.
6. That rules may be made by the person owning the works for regulating the passage of logs so that one man's timber may not interfere with the free movement of another man's, such regulations being subject to the approval of the Lieutenant-Governor in Council.

BILL REASONABLE.

The necessity for such an Act must be apparent to any person. Without such a Bill any man might take possession of a stream and having built certain works to improve its floatability, shut out from the markets of the world all owners of timber limits lying towards the sources of such stream. The people of Ontario had direct interest in such legislation. The revenue from woods and forests amount to over half a million dollars annually. To allow any person to shut out the lumber that must reach the market, if it reaches it at all through streams on which some other person had made some improvements, would be to deprive the Province of a certain portion of its legitimate revenue and the public of a very important right.

SPECIAL EFFECT OF THE ACT.

This Act, so general in its application and so clearly framed in the public interest

applied in the first instance to a difficulty existing between two lumbermen owning large timber limits on the Mississippi—a tributary of the Ottawa. It seems that one of them, Peter McLaren, had made certain improvements on this river for his own benefit and at a large cost. H. C. Caldwell, the other, owned limits above McLaren, and in order to get his timber to the market it was necessary to pass through McLaren's slides. He was willing to pay for the use of McLaren's improvements, but was refused, and lest he should proceed to use them McLaren applied to the Court of Chancery for an injunction to restrain him. The case was before the Courts when the Streams Bill passed the Ontario Legislature and even without the favorable decision of the Court which he afterwards received. Caldwell by this Act would have the right to use McLaren's improvements by paying for them. The only way to prevent this was to secure the disallowance of the Bill. As a well known and influential Conservative he had a strong claim upon the Government. His Counsel was a prominent member of the party also, and no matter how much the public as well as Caldwell might be inconvenienced or how much the revenue of Ontario might suffer the disallowance of the Bill must be secured. Accordingly he petitioned the Minister of Justice to that effect, and on the 17th of May, six weeks after the Bill was assented to, without giving notice to the Government of Ontario as Sir John Macdonald declared in 1863 should be done and as had always been done, the Minister of Justice—the Hon. James Macdonald—recommended the disallowance of the Bill in the following terms:

"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 the 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 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 looking closely at the decision of the Minister of Justice it will be seen that he based his disallowance of the Bill on three grounds: 1. That it interfered with private rights; 2. That it was retrospective; and 3. That it set aside a judgment of the Court then pending. In regard to the first ground, it must be said that interference with private rights was never set up before by the Government as a reason for disallowance. By the British North America Act.