

## CORRESPONDENCE.—RIVERS AND STREAMS BILL.

various denominations within the province to solemnize marriage "between any two persons, neither of whom is under any legal disqualification to contract matrimony"—such "legal disqualification" being nowhere defined except in the Imperial Statute-book.

The legality of certain doubtful marriages, heretofore contracted in the colonies, pursuant to colonial legislation, was confirmed by the Imperial Act of 1865, above-mentioned. But before the Imperial law, which is applicable to this subject in all parts of the empire, can be changed in any colony, it is indispensable that express legislation shall have taken place in the particular colony, and that the sanction of the Crown shall have been given to the same. This has in fact been done, within the past ten years, in various parts of the British dominions, by colonial enactments, authorizing, within the limits of the respective colonies, marriage with a deceased wife's sister. Similar power was conferred by the British North America Act of 1867, upon the Parliament of Canada to deal with all questions in relation to "Marriage and Divorce." But hitherto the Canadian parliament has refrained from passing any such measure. I am therefore warranted in saying that we are still governed, on this subject, by the general law of the Mother Country, and that until the Dominion Parliament shall enact to the contrary, alliances with a deceased wife's sister are "as unlawful in Canada as they are in England."

ALPHEUS TODD.

Ottawa, 28th May, 1881.

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

DEPARTMENT OF JUSTICE,  
OTTAWA, May 17th, 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 in effect 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 declares that all persons have, and always have had, during the spring, summer, and autumn freshets the right to float and transmit saw logs, &c., 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, &c., down the same, it shall be lawful for the persons requiring to float down the saw logs, &c., to remove such obstruction, and to construct such apron, dam, &c.

The second section declares that in case any person shall construct in 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 therein, 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, &c.

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.