

"1. As being altogether illegal or unconstitutional.

"2. As illegal or unconstitutional in part.

"3. In cases of concurrent jurisdiction, as clashing with the legislation of the general Parliament.

"4. As affecting the interests of the Dominion generally. And that in such report or reports he gives his reasons for his opinions."

Here we have a clear exposition of the grounds on which local legislation was to be disallowed. On this basis the federal system was to be reared. Provincial rights were to be preserved, and within their own jurisdiction the various Local Legislatures were absolutely free from all interference. Sir John Macdonald contended for this principle in 1872 when the question of disallowing the New Brunswick School Bill came before him. His contention was then, as in 1868, that provincial rights were sacredly guarded by the Constitution, and must not be invaded by the Executive.

SIR JOHN MACDONALD'S OWN VIEW.

Speaking in the House of Commons on this question, he said: "The provinces have their rights, and the question was not whether this House thought a Local Legislature was right or wrong. But the whole question for this House to consider, whenever such a question as this was brought up, was that they should say at once that they had no right to interfere so long as the different Provincial Legislatures acted within the bounds of the authority which the Constitution gave them. (Hear, hear.) There was this fixed principle—that every Provincial Legislature should feel that, when it was legislating, it was legislating in the reality and not in the sham. If they did not know and feel that the measures they were arguing, discussing and amending and modifying to suit their own people would become law it was all sham, and the federal system was gone forever.

"If this House undertook the great responsibility of interfering with the local laws, they must be prepared to discuss the justice or injustice of every law passed by every Provincial Legislature—(hear, hear)—and this Legislature, instead of being, as now, the general Court of Parliament for the decision of great Dominion questions, would be simply a Court of Appeal to try whether the Provincial Legislatures were right or wrong in the conclusions they came to. (Hear, hear.) If this House was prepared to take that course and adopt that principle, then the Government of the day, while it would have much more responsibility, would also have much more

power; for, besides conducting and administering the affairs of the whole Dominion as one great country, it would also have the power, the authority and the control of a majority over every Bill, every Act, every conclusion, every institution, every right of every Province in Canada. (Cheers.)

With this view of provincial authority the Liberal party agreed, and on this view Sir John Macdonald acted in every instance, from Confederation down to the disallowance of the Streams Bill.

HISTORY OF THE STREAMS BILL.

On the 4th of March, 1881, the Local Legislature passed "An Act for Protecting the Public Interests in Rivers, Streams and Creeks."

Clause 1 of this Act provides that "So far as the Legislature of Ontario has authority so to enact, all persons shall, subject to the provisions in this Act contained, have, and are hereby declared always to have, during the spring, summer and autumn freshets, the right to, and may float and transmit saw logs and all other timber of every kind and all rafts and crafts down all rivers, creeks and streams in respect of which the Legislature of Ontario has authority to give this power."

Clause 2 provides that any person may use all such rivers, creeks and streams for floating timber during the spring, summer and autumn freshets, notwithstanding any improvements that may have been made upon them "subject to the payment to the person who has made such improvements of reasonable tolls."

Clause 3 applies those provisions to patented and unpatented lands.

Clause 4 provides that "the Lieutenant-Governor in Council may fix the amounts which any person entitled to tolls under this Act shall be at liberty to charge on the saw logs and the different kinds of timber rafts and crafts and may from time to time vary the same; and the Lieutenant-Governor in Council in fixing such tolls shall have regard to and take into consideration the original cost of such improvements, the amount required to maintain the same and to cover interest upon the original cost as well as such other matters as under all the circumstances may to the Lieutenant-Governor in Council seem just and equitable."

Clause 5 applies the provisions of the Act to improvements made or hereafter to be made.

Clause 6 provides that any person making improvements are to have a lien upon logs for his tolls.

Clause 8 provides that the person who has the right to collect tolls shall also have the right to make rules for passing the timber through or over his works subject to the approval of the Governor in Council.