

and recognizing that view, it is that hon. Ministers come down and lay a proposition before us to establish a permanent principle that the Crown shall be authorized to deprive the subject of the right of navigation to the extent to which any boom, dam, or aboiteau which the Crown thinks fit to legalize, may deprive them of. No general principle is laid down for action, no proposal is made that there shall be Commissioners to ascertain certain general principles of action, or the extent of the public good that is created by the existence of the dam, aboiteau, or boom, or the extent of the public inconvenience that is created, on the other hand, in the way of obstruction of navigation. Of course, those who are in possession of the boom, aboiteau, or dam, feel that it is very important that they should remain in possession of it, no matter how great the obstruction to navigation, and they will press very strongly upon the Government of the day the propriety of legalizing its maintenance. On the other hand, the public may want to use this stream, or whatever it may be, only occasionally, at rare intervals, and there may be nobody very prominently representing the general public cause. Now, it seems to me that it is a great innovation that Parliament should surrender to the Crown the power, *in perpetuum*, of determining whether the right of navigation is interfered with in any place throughout the Dominion in which the Local Legislature may have authorized the erection of booms, dams, or aboiteaus. I do not think Parliament ought to depart with that power; I think it ought not to depart with that power any more than a Local Legislature should depart with the power of authorizing the erection of dams, booms, or aboiteaus. Now another principle of arbitrary power which is proposed to be taken, and that seems to me wrong in principle, is a power on the part of the Governor in Council, of its own head, without the authority of a court of law at all, to order the destruction of a boom, dyke, or aboiteau. A subject who has erected a boom, dyke, or aboiteau, may contend that he has got a legal right to maintain it, that it does not interfere with navigation, &c.; but you propose, by the fifth section, to authorize the Governor in Council to order it to be torn down, and the rights of the subject may be thus interfered with without any redress whatever. It seems to me that is an entirely indefensible position in point of principle. It seems to me unexampled legislation, so far as I know, that the Crown should have authority, first of all, to say this nuisance interferes with navigation, and having said so should have authority, of its own hand, to order its destruction without determination of a court as to whether the opinion of the officers of the Crown is right or wrong. But with reference to the special section, and those things which are in litigation, I think it is more fit that discussion on them should take place in Committee; but I will merely suggest that the third sub-section as it stands might prove wholly insufficient to do what ought to be done in the case of these companies. It is quite proper, if the action with reference to the boom, dam, or aboiteau, be one of damages for the loss which an individual has obtained from the obstruction, that the Legislature should not interfere in such sort that this extent of damages should not be recovered. But, supposing the procedure is, as it may be, a procedure *in rem*, a procedure in the court to evade it, then that which you would determine to be illegal will, first of all, be torn down under this section, and then afterwards the authority of the Governor in Council will be invoked to say it is legal. It seems to me a distinction ought to be made, because you are going to give the Governor in Council power to declare this erection illegal so far as it interferes with navigation, and you ought not to allow legal proceedings, even though pending, to proceed to their absolute determination. Let the damages be sustained, let the action for damages proceed to the end, but let the erection not be torn down, first of all, at the suit of

the individual, and afterwards set up again in form, though it would not be set up again in substance, by the Order in Council. It would be like:

"Humpty Dumpty sat on a wall,
Humpty Dumpty had a great fall;
All the King's horses, and all the King's men,
Cannot set Humpty Dumpty up again."

There is also the difficulty my hon. friend from St. John has referred to with reference to these cases, and there certainly should be an amendment in this regard in the Committee. But these are matters of detail. It is to the principle of the Bill that I object—to these two points: that you are proposing to invest the Crown with an absolute discretion to interfere with the right of a subject to free navigation where it chooses, and that you are proposing further to invest the Crown with the power, wherever it thinks that a particular erection is an obstruction to navigation, to pull it down without that question being tried in courts of law.

Sir HECTOR LANGEVIN. In answer to the hon. member for St. John, who agrees with the Bill in regard to booms, but who objects to the word "dam" and the word "aboiteau" and the word "dyke," I must say that if the hon. gentleman refers again to the first and second clauses he will find when the Bill refers to booms, dams, and aboiteaus, it is in so far as the same may not interfere with navigation; and if they do not interfere with navigation the Bill will not apply, and, therefore, the objection of the hon. gentleman is not pertinent. But I remember, and I think the hon. gentleman himself will remember, where an aboiteau was in the way of navigation—I cannot just now recollect the place—but we had to build, as a Government, a large aboiteau in either New Brunswick or Nova Scotia, some ten years ago.

Mr. WELDON. That is the one I referred to.

Sir HECTOR LANGEVIN. I remember it was a very large and costly work, and I understood at the time, rather a difficult work. It was the first work of the kind that the Department of Public Works ever constructed, and, of course, we had to take information from those who had experience before us. I think the work we constructed was a good one. This Bill will not apply to it. The same with respect to dykes. The hon. gentleman says the dykes will not interfere with navigation. I suppose that will generally be the case, but there may be cases in which such dykes interfere with navigation. The hon. gentleman was speaking of certain portions of the country in the Maritime Provinces where dykes have been built. I saw a number of them when I had the pleasure of visiting the Lower Provinces, and they were constructed with the object of reclaiming drowned lands that were very precious and yielded large crops. But there might be a stream or streams interfered with by dykes, and in that case a dyke might fall under this Bill; but if those dykes do not interfere with navigation, of course the Bill will not apply to them. The same remark applies to dams. A dam will, most likely, instead of interfering with navigation, create navigation. Generally its object is to back the water and create a stretch of navigation which will be a benefit instead of an injury; and, therefore, in that case the Bill would apply, and would apply justly. I do not say that some changes may not be necessary in the Bill, but the principle of the Bill is a good one. The hon. leader of the Opposition has said that Parliament should not give such powers as is mentioned in this Bill to the Executive; that is to say, that the Governor in Council may interfere with these booms, dams, or aboiteaus, as is provided in section 5, which is as follows:—

"Any boom, dam, or aboiteau, within the purview of this Act which is built upon a site not approved by, or which is built in accordance with plans approved by the Governor General in Council, or which, having been so built, is not maintained in accordance with such plans,