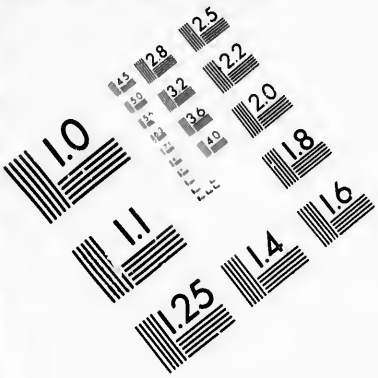

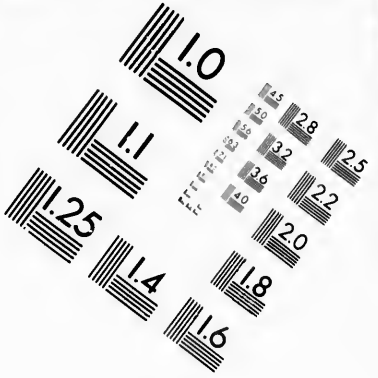

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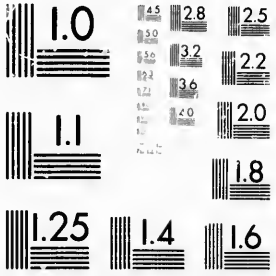

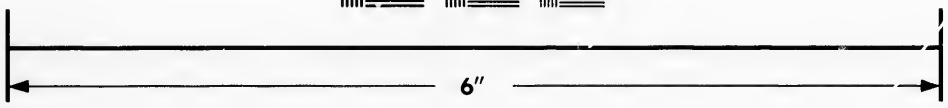

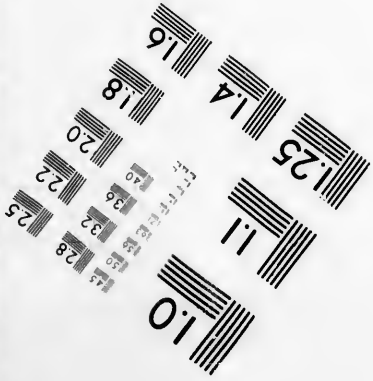

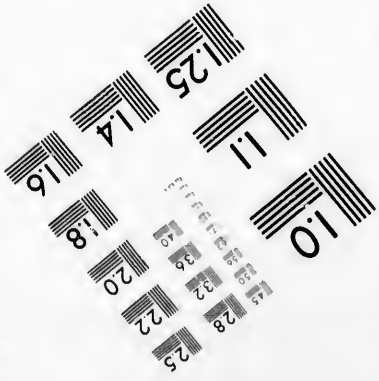

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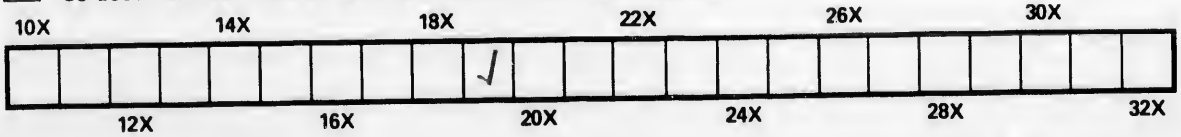

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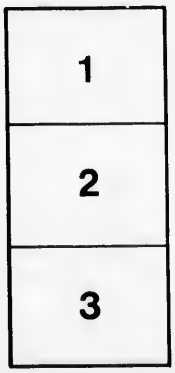

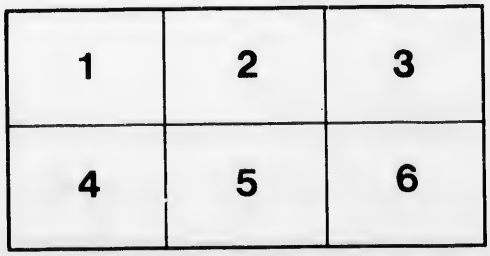

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SPEECH OF M. C. CAMERON, M.P.,

ON THE

DISALLOWANCE OF STREAMS' BILL.

HOUSE OF COMMONS,

FRIDAY, 14th April, 1882.

Mr. CAMERON (Huron). Mr. Speaker, those who, like yourself, are old enough to remember the party struggles, the party triumphs and the party defeats in the old Parliament of Canada, under a legislative union, the form of government that prevailed before Confederation, have a lively recollection of the circumstances and causes that led to these party conflicts in the early days of Canadian history. Old Upper Canada, whether right or wrong, I am not now going to discuss, always persistently and earnestly contended, that under the Union of the two Provinces, she never had fair play. We know that many questions of vital importance to the individual Province were constantly coming to the front of the political stage—questions of a purely local character that affected the Province only, and that the voice of a majority of representatives of the people from the Province affected by the proposed legislation was often overridden by the voice of the whole House. We know something now, historically at all events, of the long and gallant struggle to abolish the clergy reserves, to change the seignorial tenure, to secure to each Province a fair share of local legislation suited to its wants and requirements, and a fair share of local self-government and public works. We know that such local questions were constantly cropping up. We know that on some occasions these questions were disposed of contrary to the voice of a majority of the representatines of the people from the Province affected. We know that great dissatisfaction and discontent prevailed as the result. We know the keen and bitter struggle that followed. We know that parties in the old Parliament of Canada were so evenly balanced that neither party could successfully carry on the Government of the country. We know that at one time, at all events, Governments were made and Governments were unmade by the vote of one

man. We know that then we were face to face with a grave and serious danger, and the hon. gentleman who now leads the House said, in his speech in the old Parliament of Canada on Confederation, that men of all parties and of all shades of politics became alarmed at the aspect of affairs.. Under these circumstances, it was easy to see that the then condition of affairs could not long continue to exist. If it was desirable that our allegiance to the British Crown and to British institutions should be continued, that the growth and prosperity of the Provinces should be secured, that local affairs should be placed absolutely under the control of each Province a new condition of affairs must necessarily spring out of the chaos, and the confusion and the deadlock that, to some extent, prevailed in those early days. Various schemes were then suggested, as a remedy for the prevailing discontent. The double majority was tried, it failed. Government by coalition was tried, it failed. The hon. the First Minister, in the speech to which I have referred, pointed out other remedies. One was the dissolution of the Union between Upper and Lower Canada, and leaving affairs in the condition in which they were before the Union of 1841; the second solution of the difficulty was, representation by population; and the third solution was, a federal Union of all the British North American Provinces. The result was a federal Union of all these Provinces, willing to join the great Confederation. This Union was based on the principle long contended for by the Liberal party, especially of the Province of Ontario—the principle announced at their various conventions and gatherings imitated by the leaders of the party and supported by their followers—the principle that all local affairs should be dealt with by the local authorities, and that all affairs of a national character should be disposed of by some joint or federal power. I am satisfied that the Union of the Provinces would not have taken place, at all events at the period at which it did take place, had that not been the guiding principle in the minds of the leading statesmen who had to do with that question. I am satisfied it was one of the principles that moved the various Provinces to join Confederation—the absolute, unchecked, unrestrained control of their own local affairs. Had they thought otherwise that, notwithstanding the Union of the British North American Provinces, the local affairs of the individual Provinces, affairs assigned to them by the constitution, and over which they were supposed to have sole control, should be subject to the revision, and the disallowance of the Dominion Government, these Provinces never would have joined the Great Confederation. It was known after Confederation did take

place that, although the powers given to each of the Governments were reasonably clear and well defined, still, under our constitution, new and untried, different interpretations might be put upon the different powers reserved to the different Governments, and so, at an early day in the history of Confederation, it became necessary to lay down some clear, well defined, and permanent rule by which the Dominion Government would be guided in passing upon local legislation, and by which the Dominion Government would be restrained from the exercise of the power of vetoeing reserved by the British North America Act to the Dominion Government over the Legislation of the different Provinces. It was of the first consequence to the well being and prosperity of each Province. It was of the first consequence to the security and permanence of the Union, that the interpretation put by the Dominion Government upon that portion of the constitution which assigned to each Goverment its authority and power in matters of legislation should be certain and permanent. The hon. gentleman who now leads this House and who then guided the destinies of this country—who was then and is now Prime Minister—aware of the necessity of having these powers well defined, he, at an early day in the history of Confederation, did, so far as human skill and human ingenuity could, define the powers assigned to each of the Governments and especially the right of the Dominion Government to pass upon local legislation. Upon the 8th January, 1868, the right hon. First Minster prepared a State paper, which I hold in my hand, dealing with this important question. Permit me, for the satisfaction of the House, to read from that reliable and important document, the views which the hon. First Minister then entertained with respect to the right and power of the Dominion Government in passing upon local legislation :

"In deciding whether any Act of a Provincial Legislature should be disallowed, or sanctioned, the Government must not only consider whether it affects the interest of the whole Dominion or not, but also whether it be unconstitutional; whether it exceeds the jurisdiction conferred on the Local Legislature, and, in cases where the jurisdiction is concurrent whether is clashes with the legislation of the General Parliament."

"As it is of importance that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law of general interests of the Dominion imperatively demand it, the undersigned recommends that the following course be pursued :

"That on the receipt by Your Excellency of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he with all convenient speed, do report as to those Acts which he considers free from objection of any kind, and if such report be approved by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

"That he make a separate report, or separate reports, on those Acts which he may consider—

"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."

That is not all. These are the grounds, as I understand this paper, upon which the hon. gentleman thought in the early days of Confederation that the Dominion Government would be justified in passing on local legislation, in vetoing or disallowing it. But, even assuming the local legislation was in violation of the rules laid down by the hon. gentleman, even then, Sir, he did not appear to think that the Dominion Government would be justified in at once disallowing local Legislation without notifying the Local Government and giving them an opportunity of repealing or amending the obnoxious features, because he goes on to say:

"That where a measure is considered only partially defective, or where objectionable as being prejudicial to the general interests of the Dominion, or as clashing with its legislation, communication should be had with the Provincial Government with respect to such measure; and that in such case, the Act should not be disallowed, if the general interests permit such a course, until the Local Government has an opportunity of considering and discussing the objections taken, and the Local Legislature has also an opportunity of remedying the defects found to exist."

Sir, that paper bears date the 8th June, 1868, shortly after the inauguration of Confederation, and that exposition of the constitutional rule, in dealing with local legislation and the grounds upon which the Federal Government would be justified in vetoing local legislation, was approved of by His Excellency the Governor General on the 9th of June, 1868; and to this day, at all events, with one exception, no other exposition of the constitutional rule has been laid down that I am aware of. On the 17th of June, 1868, the various Local Governments were made acquainted with the conclusion arrived at by the then Minister of Justice, now the First Minister. Now, Sir, I submit that the hon. gentleman then took a sound position, that his interpretation of the power of the Local Legislatures and of the right of the Dominion Government to interfere with their legislation, was a reasonable and correct one, and I am not disposed to quarrel with the propositions the hon. gentleman then laid down. Had the hon. gentleman adhered to the proposition thus laid down in the State paper from which I have just quoted, had he not departed from the principles therein set forth, had he and his followers not subsequently claimed, as I submit they do

claim, the absolute, unconditional and unrestricted right of interfering with and disallowing all local legislation, whether within or beyond the local legislatures to pronounce upon, had a new departure not been taken. Had the principles on which he first acted and on which he has acted since Confederation, been acted on throughout, I would not now be about to place in your hands the amendment I propose to place in your hands before I resume my seat. Those of us who know something of the hon. gentleman, who have watched his career for the last quarter of a century, who know the means by which the hon. gentleman obtained power, and the sources from which he has drawn and still draws his strength—those of us who know something of the hon. gentleman's opinions as to a federal and legislative Union, those of us who know that the hon. gentleman was always a pronounced advocate of legislative Union of all the Provinces, are not all surprised at the ground he has subsequently taken, and that he should, by his course, endeavour to so handicap local legislation as to make the Local Legislatures practically playthings in the hands of the Dominion Government. Under the new system of Government the hon. gentleman came into power on the 1st of July, 1867; he remained in power till the 5th of November, 1873; he again came into power in October, 1878, and he is in power to this day, and during all these years, with one exception, the hon. gentleman has acted upon the principle laid down in this paper of the 8th of June, 1868. Sir, for many long years the hon. gentleman has led the Government; he has been the ruling spirit in the various Governments of which he has been a member for the last fifteen years; he has been the main spring by which the various pieces of machinery in the Cabinet of curiosities have been set in motion, and during all these years, until very recently, when, no doubt, strong personal and political pressure was brought to bear upon him, has acted upon the principles laid down in the paper of the 8th of June, 1868; and it was only when, that strong personal and political pressure, that could no longer be resisted, that the hon. gentleman departed from the course he at first marked out for himself and transgressed the rule he at first laid down. It was only then that the hon. gentleman yielded his better judgment and his sounder convictions to the exigencies of the hour, or perhaps it would be more correct to say the exigencies of his party and openly transgressed the rule laid down by himself and strained the constitution to its utmost limit. Now, Sir, I have pointed out the grounds upon which the hon. gentleman thought the Dominion Government would be called upon to inter-

fere with local legislation. I now propose pointing out that on these principles the hon. gentleman has acted for the last fifteen years while he was in power, with the one exception of the Streams' Bill, that his interpretation of the rule laid down, and of the right and power of the Dominion Government to interfere in local legislation has been uniform and consistent; to do otherwise, to recognize and admit that the Federal Government, without let or hindrance, without rule or principle, except the arbitrary will of the Minister of Justice for the time being, have the right to interfere with, to check or veto local legislation, although that legislation is within the scope of the powers assigned to the Local Legislatures under the constitution is to admit that the Local Legislatures are not within the constitution—legislative bodies even when legislating within the powers assigned to them by the Constitution and, Sir, I am not prepared to admit any such proposition. I am not prepared to admit by sanctioning the hon. gentleman's course, in disallowing the Streams' Bill—a question I propose to deal with shortly—that there is in the hands of the Dominion Government a power that cannot be checked and that cannot be controlled; that the hon. the Minister of Justice, sitting in his chair in his office at Ottawa, knows better what is in the interest of a province and what is for the benefit of the people than the sworn advisers of the Lieutenant-Governor, aided and assisted by a free Parliament. I prefer adopting the constitutional rule laid down by the hon. gentleman that the Local Legislatures within the scope of the powers conferred in them should not be interfered with unless in violation of certain well defined rules. I prefer adopting the opinion of Mr. Todd, who says that local legislation should not be interfered with except "where it appears that the proposed legislation is contrary to the policy which, in the opinion of the Governor General in Council, ought to prevail throughout the Dominion in lieu thereof," and that the power of veto should only be invoked where the legislation is "likely to prove injurious to the interests of the Dominion." Now, Sir, I propose for a moment or two to point out that the hon. gentleman has acted upon the principles he has laid down. I propose going a step further, and showing by a series of Acts that passed under the review of the hon. gentleman, that for fifteen years, while he occupied a position in the Government, and when those Statutes were submitted for his inspection, he, in every single instance, with one exception, has followed out the course laid down by himself in 1868. The hon. gentleman has even gone further, and where provincial legislation was in violation of the rules so laid down he did not assume the responsibility of disallowing that local legis-

lation, without giving the Local Governments notification of his objections to the Bills, and giving them an opportunity of amending that legislation and making it in conformity with the laws as interpreted by the hon. gentleman. This is a most important question; it is a grave question; it is a question that affects the well-being and prosperity of every individual Province; it is a question that affects the security and the permanance of the Union, about which we hear so much from the hon. Minister of Railways; and therefore I offer no apology to the House for taking up some time in going over the Statutes of the various Provinces that passed in review before the hon. gentleman, which were in violation of the rules laid down by himself, that he did not disallow in the first instance, but which he, in the judicious exercise of the functions of his office, notified the Lieutenant Governors were objectionable and gave the Local Governments an opportunity of amending or correcting them. I find the Province of Quebec passed an Act continuing the Bankruptcy Laws of that Province. That Act passed in review before the hon. gentleman. It was clearly unconstitutional, it trenched upon the powers of the Dominion Parliament. Did he disallow the Act in the first instance? Nothing of the kind. He drew the attention of the Local Government to it, and suggested the propriety of allowing the Act to expire, and I believe it was allowed to expire accordingly. The Legislature of the Province of Quebec passed another Act respecting corporations doing business beyond the Province of Quebec. That Statute also passed in review before the hon. gentleman. It was clearly *ultra vires;* the Legislature had no such power; but the hon. gentleman did not assume the responsibility of disallowing the Bill, although it was clearly a violation of the rules laid down by himself. He drew the attention of the Quebec Government to the obnoxious provisions in the Bill, and I believe the Bill was subsequently amended. The Legislature in Quebec passed an Act respecting the Recorder's Court of Quebec. The Bill was in violation of the rules laid by the First Minister, because it trenched upon the criminal law and the power of dealing with the criminal law is vested exclusively in the Dominion Parliament. The hon. gentleman did not disallow that Bill; he drew the attention of the Local Government to its obnoxious features. I believe it was subsequently amended by the Local Government. The Legislature of Ontario passed an Act authorizing the publication of the *Ontario Gazette*, and making provision for enquiries respecting public matters. This Bill also passed in review before the hon. gentleman, subsequent to the

time when he laid down the rules to which I have referred. He pointed out several provisions of that Bill that were objectionable as trenching on Dominion legislative powers, but he did not disallow the Bill. He allowed it to go into effect. He did not assume the responsibility of disallowing it, although it was contrary to the rules laid down by himself. The Ontario Legislature passed an Act respecting gold and silver mining. That Bill also came in review before the hon. gentleman. It was not disallowed, although some of its provisions were clearly unconstitutional, he drew the attention of the Government to its obnoxious provisions. The Legislature of Ontario passed an Act respecting registrars. That Act was also in some of its provisions an encroachment upon the powers of legislation assigned to the Dominion Parliament. The hon. gentleman did not assume the responsibility of disallowing it, he allowed the Bill to take effect, and drew the attention of the Local Government to its provisions. The Ontario Legislature passed an Act for the encouragement of agriculture. It was also defective in some of its provisions, one of which was a violation of the rules laid down by the hon. gentleman in regard to disallowing Local Acts, when they trenched upon the legislative powers of the Dominion Parliament. He did not disallow the Bill, but permitted it to take effect, drawing the attention of the Local Government to is obnoxious provisions. The Ontario Legislature passed an Act respecting municipal institutions, one of the provisions of which provided a qualification for Dominion parliamentry electors. The Bill was clearly *ultra vires*, yet the hon. gentleman did not disallow it but permitted it to take effect. The Ontario Legislature passed an Act to continue for a limited time the Acts therein mentioned. It was in violation of the rule laid down by the hon. gentleman, because it undertook to continue the old Bankruptcy Law, which was a subject with which Local Legislatures had no power to deal. The Ontario Legislature passed an Act called an Act respecting the Clifton Bridge. The hon. gentleman had this Act in review, but he did not veto it although it was in violation of the rules laid down. It enabled a corporation to construct a bridge extending beyond the boundaries of the Province of Ontario, and was therefore *ultra vires*. Did the hon. gentleman disallow it? It was not within the competence of the Local Legislature, because the subject was one beyond their power to deal with, yet the hon. gentleman did not assume the responsibility of vetoing the Bill. Another Statute passed in the same year, by the Ontario Legislature, was intituled: "An Act to incorporate the Board of Trade of the Town of Guelph." The

hon. gentleman had that Act in review before him, and, although he reported that one clause was defective because it undertook to deal with trade and commerce, and, therefore, beyond the power of the Local Legislature, yet he did not undertake the responsibility of vetoing the Bill. He notified the Local Government of the fact, and it amended the Act as it thought fit. Another Statute passed by the Ontario Legislature was: "An Act to incorporate the Simpson Loom Company." It came also under review. The hon. gentleman pointed out that the second clause was beyond the jurisdiction of the Legislature as it dealt with the Patent Laws—a matter within the exclusive power of the Dominion Parliament; but it was allowed to go into operation, drawing the attention of the Local Government to the defect. There was an Act passed by the Legislature of the Province of New Brunswick relating to the Synod of the Church of England, in the diocese of Fredericton, and Province of New Brunswick. It came in review before the hon. gentleman; it was objected to as being unconstitutional and beyond the power of the Local Legislature. But the hon. gentleman said of it:

"Having carefully examined the provisions of the Bill, I am of opinion that it is within the jurisdiction of the Legislature of New Brunswick, and no rights of the Crown are affected by it, and recommend that it be assented to."

Now, here was a Bill within the competency of the Local Legislature. It was objected to, it was allowed to go into operation solely because it came within the power of local legislation. There were three other Acts and only three, on which I have been able to lay my hands which passed in review before the hon. gentleman, and which were clearly unconstitutional, but which the hon. gentleman did not disallow. He submitted them to the English Law Officers of the Crown, who pronounced them beyond the power of the Local Parliament, and subsequently, I believe, they were either disallowed or repealed by the Local Parliament. One of these Bills, Sir, was the Act respecting County Court Judges. In that Statute, the Local Legislature undertook to define and limit the tenure of office of County Court Judges. The hon. gentleman in a State paper on the subject points out, clearly enough, that that was beyond the power of the Local Legislature; that such Legislature had no right to deal with a question of the kind; that it was solely within the authority of the Dominion Parliament; and that the Local Legislature could not restrict or extend the tenure of office of County Court Judges. Another Statute passed by the Local Legislature was intituled: "An Act to define the privileges of the Legislative Assembly of Ontario." The hon. gentleman pointed out that some parts of this Act was

ultra vires. The third was the Supply Bill of the Province of Ontario. In that Bill provision was made for the payment by the Provincial Government in part of the salaries of the Judges of the Superior Courts there. The hon. gentleman took objection to that Bill also, but he did not take the responsibility of disallowing either of them, although they were clearly beyond the power and competence of the Local Legislature. He took the more cautious course of referring these three Bills to the Law Officers of the Crown, who pronounced them all *ultra vires*. But it is of importance what the hon. gentleman did say in his report upon these Bills. It is worth while reminding the hon. gentleman himself what his expressions of opinion were upon this subject. It is worth while reminding the followers of the hon. gentleman who are now disposed to extend and enlarge the powers of the Dominion Government, of what the hon. gentleman said twelve or fifteen years ago when dealing with these Bills. He said:

"The undersigned recommends that the attention of the Government of Ontario be called to the two first mentioned Acts, and the 6th clause of the last Act, suggesting that they should be repealed next Session and action taken place upon them meanwhile."

Now, Sir, the manner in which the hon. gentleman dealt with the Streams' Bill, with which I propose to deal, was very different from the delicate and tender manner in which he undertook to deal with the Bills to which I have just referred, and notably with the three last Statutes of the Province of Ontario which I have named. What is the reason that the hon. gentleman now lays down and acts on a rule so entirely different to that laid down and acted on years ago? Is there anything in the political atmosphere which would justify a change in the sentiments of the hon. gentleman and his colleagues and followers? We know that when the hon. gentleman presented this report on these three Bills the Government of the Province of Ontario was in the hands of friends of the hon. gentleman—the two Governments were in harmony, and we know that now a different state of things exists. The Government of the Province of Ontario whose legislation has been crippled and checked by the hon. gentleman, is not in harmony with his Government. Is it the object of hon. gentlemen opposite now to handicap and cripple the legislation of the Government of Ontario? Having said this much on the character of the legislation that passed in review before the hon. gentleman, and of the way in which the hon. gentleman dealt with it, I shall for a moment or two deal with the Streams' Bill—the one which is immediately before us for consideration and review to-day. The Streams' Bill, as it is known, was passed on the 4th of March, 1881, by the

Legislature of the Province of Ontario, and it is intituled "An Act for protecting the public interests in Rivers, Streams and Creeks." One clause provides:

"All persons shall have and are hereby declared always to have had, during the spring, summer and autumn freshets, the right to and may float saw logs and all other timber 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."

Now, one would imagine that there was nothing very formidable or objectionable in that clause. It gives a measure of protection to those engaged in the timber trade in this country. There is nothing which one can imagine would arouse the objections and animosity of hon. gentlemen in Parliament or out of Parliament against that provision. There are a score of precedents in the Statute-Book for exactly such legislation, and I will be in a position to show, before I resume my seat, that this Bill is not objectionable in any feature; or no more so at least than scores of Statutes to which the hon. gentleman has assented. Another section of the Bill provides that a person making improvements on any such streams should not have an exclusive right to them or to the use of the stream. Section four provides that tolls may be collected, and that such tolls shall be fixed by the Lieutenant-Governor in Council. Section five provides that the Act shall apply to improvements made after the passage of the Act, as well as to those made before; and section six provides that a person who makes improvements shall have a lien on the lumber passing down the stream as reasonable compensation for the use of the improvements. Now, Sir, the right to float saw logs and lumber down a stream was a right secured to the people of this country by an old Statute of the Province of Canada. That right was re-enacted in the Consolidated Statutes of Upper Canada and in the Revised Statutes of Ontario. To a plain uninitiated mind, it would appear that under the provisions of that Statute, these rights were reserved to every person who saw fit to use those streams, and that the Act applied, according to its very language, to *all streams*, not merely to streams floatable in a state of nature. The evident intention of Parliament was that the Act should apply to all streams. Let me read the clause to which the Streams' Bill purports to be an amendment. It provides that:

"All persons may during the spring, summer, and autumn freshets, float saw logs and other timber, rafts and crafts, down all streams, and no person shall, by felling trees or placing any other obstruction in or across such streams, prevent the passage thereof."

Now, the right which Parliament secured to the public by this Act was supposed to extend, according to the very

language of it, to all streams. It was supposed to extend to streams down which saw logs or other timber could be floated, with or without improvements, and if that right did not exist what would be theposition of the trade to which I have adverted? Take one of the smaller streams of this Dominion down which timber has been constantly floated to the great markets of the east and the Mother Country. Suppose a man owns a limit on a portion of that stream, and a neighbor owns another further up the stream. If the contention of the hon. gentlemen be correct, if the construction they put upon the Statute be correct, then the man who owned the limit down stream had it in his power to prevent the man further up from taking the produce of his toil and labor to the markets of the world. I do not think that the law meant any such thing. Unfortunately what gave rise to the litigation and to the Act of Parliament in question, and to the conflict of authority between the two Legislatures, was an interpretation put upon the old Statute by one of the Courts of Ontario. That Court, in the case of Boale *vs.* Dickson, held that the wording of the old Statute only applied to navigable streams, or streams floatable in a state of nature, and did not extend to streams that were not floatable in their natural condition. Resting on that authority, a man by the name of Peter McLaren, who owned a limit in the county of Lanark on two streams, one of which was called Buckshot Creek, and the other Louise Creek, neither of which were floatable in a state of nature, and on which improvements had been made by McLaren to render them floatable, undertook to restrain and prevent the use of that stream by a person having a limit further up the stream. He claimed the absolute and unconditional ownership of the stream itself and the bed of the stream, by virtue of patents which he alleged he had obtained from the Government; and, as riparian proprietor and relying on such claims, a man named Caldwell, who owned a limit farther up the streams, was prevented and restrained from bringing his timber to market by McLaren. This man McLaren, in order to restrain Caldwell from using the stream, fyled a Bill in the Court of Chancery, and it may be well to read one clause of that Bill to show the extraordinary grounds on which Mr. McLaren based his claim to the absolute and unconditional ownership of the streams in question—streams which I contend belong to the people of this country. He says that the streams flowing through his parcels of land were not navigable streams, "nor floatable for logs and timber," while in the Crown, nor until after the improvements set forth in the Bill were made on the said streams by the

plaintiff; and that in their natural and unimproved state, they would not, even during freshets, permit of saw-logs or timber being floated down the same, but were useless for the purpose. And in the 10th paragraph the plaintiff thus states his rights:

"The plaintiff is entitled, both as riparian proprietor and as owner in fee simple of the bed of the said streams, where they pass and flow through the said lots respectively, to the absolute, exclusive, and uninterrupted user of the said streams for all purposes not forbidden by law, and amongst other purposes, to the absolute and exclusive right to the user of the same for the purpose of floating or driving saw-logs and timber down the same."

He then goes on to say that on various parts of the said streams which run and flow through lands therein described, the plaintiff and those through whom he claims have expended a large amount of money in making certain specific and very valuable improvements, which he sets out in a number of the following paragraphs of the Bill. The case came up before Vice-Chancellor Proudfoot, and the Vice Chancellor gave judgment in Mr. McLaren's favor, without argument, resting on the authority of the case of Boale v. Dickson, with a view of having the law settled in the Court of Appeal. It did go to the Court of Appeal, the highest Court in the Province of Ontario, and that Court sustained the appeal with costs. I cannot present the case in a clearer or better light or describe more accurately the position and the rights of the different parties, and the rights of the public involved in this question, than by reading from the judgment of one of the ablest Judges that ever graced the Ontario Bench. The Judge says:

"Having reached the conclusion that all streams are by public authority dedicated as highways to at least the extent essential to the defence in this action, I have only further to remark that when the obstruction which stood in the way of the enjoyment of the legal right is removed, when the traveller by land or lumberer seeking to float his lumber down a stream, finds the highway unobstructed, he is at liberty, in my judgment, to make use of it without inquiring by whom, or with what motive, the way has been made practicable. He finds the rock on the road allowance blasted, or the chasm that crossed it bridged, and he pursues his journey along the highway thus improved; or he finds that the freshet covers all obstacles with a sufficient depth of water, and he floats his logs down the highway thus made useful. It may be in appearance and perhaps in reality rather hard on the man at whose expense what was a highway only in legal contemplation becomes one fit for profitable use, has to allow others to share in the advantage without contributing to the cost. That is, however, a matter for his own consideration when he makes the improvements."

Now, Sir, this judgment was given after the Streams' Bill became law, it was given after the Streams Bill was disallowed by the Government. While the case was before the Court of Appeal, the Minister of Justice, without waiting for the judgment of the Court of Appeal, without cause, without reflection, without conference with or notifi-

cation to the Ontario Government, without following the rule which the hon. gentleman says should be followed on every occasion, on the 19th of May, in hot haste, *ex parte*, upon the statement of Mr. McLaren or Mr. McLaren's counsel, disallowed this Bill. He knew nothing of the reasons which induced the Local Parliament to pass this Bill; he knew nothing of the reasons which induced the Lieutenant-Governor to lend the sanction of Her Majesty to this Bill. He knew nothing of the circumstances which made such a Bill necessary in the public interest, but on the *ex parte* statement of one of the litigants, he disallows the Bill. Sir, if he were acting as counsel for one of the litigants, one could understand his action; but acting as the Minister of Justice, bound to conserve the rights of the different Provinces, and to see that their legislation is not improperly interfered with, the hon. gentleman's disallowance of the Bill, and his reasons therefor, are most extraordinary. I will trouble the House with an extract from the reasons the hon. gentleman gives. After a review of the position of affairs between the parties pending the litigation between McLaren and Caldwell, the late hon. Minister of Justice says:

"He (Caldwell) attempted to float his logs down McLaren's stream, and through his improvements. To prevent his doing so the suit in Chancery, above referred to, was instituted, and a decree was made declaring Mr. McLaren exclusively entitled to the use of the streams and improvements, and restraining Mr. Caldwell from floating logs down the stream.

"The effect of the Act now under consideration must necessarily be to reverse the decision of this suit.

"The effect of the Act as it now stands seems to be to take away the use of the property from one man and give it to another, forcing the owner practically to become a toll collector against his will, if he wishes to get any compensation for being thus deprived of his rights.

"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 this 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 in the way 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."

Now, Sir, it will be observed that the two grounds on which the late hon. Minister of Justice advised and recommended the disallowance of this Bill are: 1st. That the Act in question is in violation of private rights; and 2nd. That it is retrospective, and overrides a decision of a Court of competent jurisdiction. The hon. Minister of Justice admitted the competence of the Local Legislature to deal with this question. He admits that it was a question of property and civil rights only. He admits that the Dominion Government had no power to deal with it, and he

admits that the Act did not clash with Dominion legislation, rights or interests. He knew, as I have indicated, nothing about the merits of the case. He did not, take the trouble to communicate with the Local Government on the subject. He knows the case is in appeal. He does not wait for the judgment of that court; but, at the instigation of one of the litigants, the hon. Minister of Justice at Ottawa undertakes to disallow this Bill. Sir, I say that hon. gentlemen on the other side of the House will search in vain among the precedents laid down by themselves, among the parliamentary records, and among the Blue-Books, where these things are recorded, to find a precedent for the line of action which was pursued by the late hon. Minister of Justice. Now, Sir, it is not pretended that it comes within the rules laid down by the present hon. Premier when Minister of Justice; nor that the Act is unconstitutional; nor that it entrenches on Dominion legislation. Why, then, I ask, Sir, should the hon. gentleman undertake to veto this legislation? Is there any reason for it, outside the constitutional rule laid down by themselves? One will rise from a perusal of the whole history of this transaction, and of the documents submitted by these hon. gentlemen to Parliament with his mind firmly impressed with the idea, that there was something behind the whole transaction which does not appear on the surface, and that there was something outside of and beyond the interests which the hon. the Minister of Justice was bound to guard, which induced the late Minister of Justice to veto this Bill. Now, as I have said, the Minister of Justice undertook to veto this Bill on two grounds: one was that it was in violation of private rights, and the other that it was retrospective, and overrode a judgment of a Court. Moreover, hon. gentlemen opposite have over and over again allowed just such legislation to pass into law. The First Minister has over and over again sanctioned and allowed to become law Bills retrospective in their character, and that overrode the judgments of Courts, and that interfered with private rights. If I can show you, Sir, that a score of Bills of this character were ratified by the hon. First Minister, when Minister of Justice, during the last fifteen years, and that the hon. gentleman over and over again stated that when a Bill was within the competence and power of the Local Government, even though it was retrospective, the Dominion Government had no right to and should not interfere, I think that I will have made out a case sufficiently strong to warrant me in placing

in your hands the resolution which I propose to move. I will first deal with the assertion that this Act was retrospective and overrode a judgment of the Court. I find, Sir, that the Parliament of Ontario passed a Statute intituled "An Act to enable municipalities along the line of the Grand Junction Railway Company to grant aid thereby and to legalize certain by-laws granting such aid"—to legalize by-laws, which were wholly illegal. This Act came before the Minister of Justice. It was protested against and objected to. Some of its provisions were clearly retrospective. It interfered with private rights. But what did the hon. gentleman say in reporting on the Bill? That many petitions were presented against it, but that as it was within the competence of the Local Legislature, it should be allowed to come into operation. Now, Sir, here was a Bill which expressly interfered with private rights, which made that legal which was not legal before, which made a corporation responsible and liable for debts for which they were not liable before, and which imposed on them responsibilities and duties that were not imposed on them by law, and yet the hon gentleman allowed that Bill to go into operation, while the late Minister of Justice disallowed the Streams' Bill, which is no more retrospective, and no more interferes with private rights than the Bill to which I have just referred. Now, Sir, as to the other branch of this objection, namely that the Bill in question overrode a judgment of the Court. I find that on several occasions Parliament did pass Bills, the effect of which was to override a judgment of the Court. Some of us have a lively recollection—and I dare say also, the hon. Prime Minister—of the case of Hammond vs. McLay. In 1859, Hammond was appointed registrar of the county of Bruce. Under 9 Victoria, Chapter 34, this Statute enabled the Government to dismiss the registrar upon certain grounds specified therein. Hammond was dismissed by the Government upon a ground which was not mentioned in the Statute. He was superseded under the great seal of the Province of Ontario, and another man by the name of McLay was appointed in his place. Hammond brought an action for the fees, contending that the Government had no power so to dismiss him. Pending the litigation, and before a judgment was finally rendered by the Court of Appeal, the Government passed a Statute which changed the tenure of office from good behavior to during the will of the Lieutenant-Governor. Now, Sir, this was an *ex post facto* Act, which interfered with the judgment of the Court. This Act, Sir, was not questioned. It is true that it was before Confederation, but then the Imperial Gov-

ernment possessed precisely the same rights with regard to Collonial Legislation, that the Dominion now possesses respecting Provincial Legislatures. This Statute, Sir, was both retrospective, and it clearly overrode a judgment of the Court. I will give you another case—Jones *vs.* Ketchum. The action was brought against the defendant for exacting an illegal rate of interest. Pending the suit, the law on the subject was changed, and the plaintiff was thus deprived of the right that was vested in him at the commencement of his suit. This law interfered with a suit which was before the Courts; and so, Sir, I could go on submitting case after case until the House would be wearied of them. I will content myself with laying down the proposition, that it is no new principle in the legislation of this or of the Mother Country, that Parliament may interfere with a judgment of a Court. I attach more importance to the second ground in which the Streams Bill was disallowed, namely, that it interfered with private rights. I now propose to submit to the consideration of the House a number of Bills which were retrospective, which interfered with private rights, and which overrode a judgment of the Courts, and which all passed in review before the hon. gentleman, and which were all left to their operation. Now, Sir, the Legislature of the Province of New Brunswick passed an Act to exempt the homesteads of families from levy and sale under execution. This Act came before the hon. gentleman, he pointed out that some clauses in the Bill were objectionable, but he had no objections to the rest of the Bill. On reading the Bill you will find that it is in direct interference with private rights. It expressly interfered with judgments against debtors. Before this act was passed, the law enabled creditors to enforce the payment of their debt out of certain assets of the debtor, this law interfered with that remedy. It was an *ex post facto* law of the most objectionable kind. But it was not to its operation. And so, Sir, you will find Acts of precisely the same kind passed by all the Provinces, and all left to their operation. I wish to draw the particular attention of the House to one passed by the Province of Quebec, its an Act respecting the "Society L'Union St. Jacques de Montreal." Now, this was an *ex post facto* Act, in the worst possible sense of the term. It proposed the enforced commutation of the existing rights of two widow ladies, and, who, at the time it was passed, were annuitants of this society, under the law and the rules of the society. This Statute proposed to enforce the commutation of their annuities, and it was clearly an interference with vested rights. It compelled those ladies to take a certain sum, when by law they were entitled to more. It de-

prived them of rights which were secured to them by the law of the land. What was the result? Like others, it passed in review before the hon. gentleman. It was not objected to. It was allowed to come into operation. It interfered with private rights, and yet the hon. gentleman allowed it to become law. What was the result? Litigation was the result of this Bill. It came before the Courts of Quebec, and the case was ultimately appealed to the Privy Council. What did the Judicial Committee of the Privy Council say? They said:

"Clearly this matter is private, clearly it is local, so far as locality is to be considered, because it is in the Province and in the city of Montreal, and unless therefore the effect of that head of section 92 is for this purpose qualified by something in section 91, it is a matter not only within the competence but within the exclusive competency of the Provincial Legislature."

Let me go a step further. The Province of Ontario passed an Act relating to the Government road allowances and the granting of timber licenses thereon. Hon. gentlemen who are disposed to take a different view of the right of the Dominion Government to disallow the Streams' Bill, who are disposed to give the Dominion Government unlimited power and unlimited control over local legislation, had better with care and caution read the report of the hon. First Minister upon the Bill which I have just referred to, containing the grounds upon which he allowed that Bill to become law. Now, under the law as it stood, when that Bill was passed, the road allowances in the Province of Ontario were vested in the municipalities, and all the timber upon the road allowances became, and was, the private property of individual corporations. The Government of Ontario granted timber licences to this very man McLaren, who induced the Dominion Government to disallow this Bill, and to others as well, and included within such licenses the timber that was growing on the road allowances, the fee simple of which was vested in the corporations. The municipalities protested against McLaren and others cutting timber on their private property; one of the corporations brought an action in the Court of Common Pleas against McLaren and others, and the Court gave judgment in favor of the plaintiffs on the grounds that the Local Government had no power to grant licenses to cut timber in lands which was not their property. The case was carried to the Court of Appeal, but before judgment was given in that Court this Act was passed by the late Sandfield Macdonald Administration in Ontario. What are the provisions of that Act? One of the clauses provides that:

"Every Government road allowances included in any timber licenses heretofore granted, shall be deemed to be and to have been ungranted lands."

Was not that retrospective legislation? One would naturally think that it was legislation of a retrospective and most objectional and vicious character. Here was a property that belonged to a municipality subsequently leased to a private individual. The lessee claims the timber on lands that never belanged to him—the municipality protests and the Legislature passes a Bill providing that the timber upon this property was included, and intended to be always included, in the licenses so granted. Section 2 provided that

"The licensee shall be deemed to have, and to have had, all rights in the trees, timber, lumber thereon, or cut thereon, as if the same were cut on any patented land of the Crown."

Now here was an Act that was respective in its character, that interfered with private rights, that directly took the property from one person and vested it in another without compensation, that overrode the judgment of the Court and rights of the municipality. The corporation of the county of Frontenac petitioned against this Act, and the Act passed in review before the hon. the First Minister with all its objectionable features. Did the hon. the First Minister disallow the Bill? Not at all. He said: "It is clearly within the competence of the Local Legislature, and the undersigned recommends that it be left to its operation." When the Streams' Bill came before the hon. gentleman he did not take that ground; it was admitted that it was within the competence of the Local Legislature, but though it was within the competence of the Local Legislature it was a violation, according to the Government's opinion of private rights, as now expounded by them, it was retrospective legislation, it was vicious legislation, and therefore, at the instance of political supporters they at once disallowed the Bill. One rule is laid down where a Bill is objected to by a political opponents. Another where a Bill is objected to by a political friend. Sir, if I could only trespass on the patience of the House I could mention a score of cases where the hon. gentleman has acted on principles entirely different to that in which he acted in disallowing the Streams' Bill. The hon. gentleman in disallowing this Bill has not a foot to stand on—he has transgressed all rules and all precedents, his own precedents, his own record for fifteen years, constantly springs up against him. If hon. gentlemen will take the trouble to look at the Blue-Books they will find he has in this matter, as in others, transgressed the rules laid down by himself. Let me refer for a moment to another case—the Goodhue Will Case. Goodhue made his will leaving to his children a life estate, in his property, with a reversionary interest, to his grandchildren. The children

agreed to make a different distribution of the estate, to that mentioned in the will and sought to have their agreement ratified by the Local Legislature. The Local Parliament did ratify it, without the sanction of some of the parties directly interested in the estate, some of whom were minors, and some Her Majesty's subjects residing out of the Dominion of Canada, and despite the solemn protest of the trustees appointed under the Bill. The trustees protested to the Local Legislature, then to the Lieutenant-Governor, and finally to the Dominion Government, they protested against sanctioning a Bill that made for another man a will he did not make for himself. Did the hon. First Minister disallow that Bill, as, perhaps, he ought to have done; because, if there is any kind of legislation which ought to be disallowed, it is legislation that makes a will for man that in his lifetime he never comtemplated.

Sir JOHN A. MACDONALD. Hear, hear.

Mr. CAMERON. The hon gentleman says "Hear, hear." He does not appear to be able to grapple with the distinction between the Stream Bill and the Goodhue Will Case. But all the same there is a clear distinction. In the one case, an individual undertakes to control the navigation of a public stream; to prevent everybody else from using that stream; to get absolute possession of the stream, and to hold possession of it; and, under the interpretation the hon. gentleman put upon the law, as it stood before the Streams' Bill was passed, he has got the power to retain possession of it, and prevent those working limits further up the stream from getting the product of their labor to market, and thus interfering the public user of a public stream. In the other case the Legislature undertakes to make a new will for a dead man. Yet the hon. gentleman cannot see the distinction between the two cases; in passing upon the Goodhue Will Bill, what did he say? He recommended that this Act though strongly protested against should be left to its operation solely on the ground that it came within the jurisdiction of the Provincial Legislature. There is another Bill that came before the hon. gentleman, the Orange Bill, which passed the Local Legislature but did not receive the assent of the Crown, it was a reserved Bill.

Sir JOHN MACDONALD. Hear, hear.

Mr. CAMERON. The hon. gentleman does not see he distinction between a Bill that has received the sanction of Parliament that has became the law of the land unless vetoed, and a Bill reserved for the consideration of the Dominion Government. It appears to my mind very clear

that there is the greatest possible distinction between the two cases, and nobody knows that better than the hon. First Minister. What did the hon. gentleman do with the Orange Bill? He admitted that it was within the competence of the Local Legislature. Of course it was. It came before him, he had the power, with the stroke of his pen, to make that law, which was not law before. Instead of doing that he undertook in advance to advise the Lieut.-Governor what to do, in case the Bill again recieved the sanction of the Local Legislature. The hon. gentleman said this:

"If these Acts should again be passed the Lieutenant-Governor should consider himself bound to deal with them at once and not ask Your Excellency to interfere in matters of provincial concern, and solely and entirely within the jurisdiction and competence of the Legislature."

Now, why did the hon. gentleman who was not prepared to advise the Governor-General to interfere in a matter within the competence of the Local Legislature, who was not prepared to advise the Governor General to allow that Bill to come into operation although it was within the competence of the Local Legislature and should have received the assent of the Lieut.-Governor, why should he now, in a matter he must admit is within the competence of the Local Legislature, instruct his Minister of Justice to advise the Governor General to disallow the Bill, a Bill as much within the competence of the Local Legislature as the other. In the one case it suited political purposes to throw the responsibility of the legislation on to the Local Government. It suited his purpose to hamper, annoy and embarrass, if possible, the Local Legislature. It suits his purpose now to conciliate a strong personal and political friend, and he is conciliated accordingly. How anxious the hon. gentleman was in the one case to sustain the Local Legislature, how anxious is he now to embarrass, hamper and annoy the Local Government. What a sudden and serious change in the views of the hon. gentleman. I am, Sir, quite satisfied that the change in the hon. gentleman's opinion as to the right of the Dominion Government to interfere has not been brought about by a due regard for the public interest. Now, Sir, there is another Bill to which I wish to refer, and in dealing with that Bill, the hon. gentleman has put upon record, in the plainest possible manner, his views of how far the Dominion Government is justified in interfering with local legislation. I refer to the New Brunswick School Bill. Now, in my judgment, if there ever was a Bill within the competence of the Local Legislature that the Dominion Government would be justified in disallowing, that measure was one of them—I speak for myself only. It was a Bill that seriously

affected a large portion of the population of that Province; with our Roman Catholic fellow subjects it was a Bill that compelled those people to contribute to a system of education that they could not conscientiously avail themselves of. It was a Bill that affected not merely one individual, as the Streams' Bill did, but a large class of the population; it was a Bill that affected a large class of people, and which they contended violated, if not their legal, at least their equitable rights. Yet the hon. gentleman allows that Bill to pass into law. It came before him for examination; it was strongly protested against. He had a grand opportunity of dealing fairly and justly with that class of the community who thought they were wronged by that legislation. Now, it is well to remind the hon. gentleman of these things, because I know that in the multiplicity of his avocation, he cannot be expected to go back on the records of fifteen years. What did he say in his report of the 20th January, 1872:

"The Provincial Legislature has exclusive powers to make laws in relation to education. It may be that the Act in question may act unfavorably on the Catholics or other religious denominations, and if so it is for such religious bodies to appeal to the Provincial Legislature which has the sole power to grant redress."

And he is of opinion that no other course is open to the Dominion Government than to allow the Act to go into operation. The hon. gentleman's opinion is that if there is anything objectionable in the Bill, the remedy is not to be obtained from the Dominion Government or the Dominion Parliament, but from the Local Legislature, from the hon. gentlemen who controlled the destinies of the Province for the time being. The remedy is not to be sought from the Minister of Justice, but from the Local Legislature. Now, in connection with this subject I wish to read a very forcible State paper, published by the Executive Council of New Brunswick, valuable as a solemn protest against any proposed interference by the Dominion Parliament or the Dominion Government with the rights of the Province to deal with questions within the competence of the Legislature. That paper said:

"The assumption by the Provincial Legislature and Government of Canada of the right to seek the imposition of further limitations of the powers of the Provincial Parliaments is subversive of the federal character of the Union, tending to the destruction of the powers and independence of the provincial law to the centralization of all power in the Parliament of Canada.

"The people of New Brunswick cannot, and will not, surrender their rights of self government within the limits of the Constitution."

Sir, I admire the pluck of the Executive of New Brunswick. I admire the courage and the patriotism that impelled them to send to the Dominion Government this

solemn protest worthy of all praise, a policy which would do credit to the first constitutional Government in Europe. The State paper goes on to say :

"The Executive Council in Committee therefore hasten to warn the Government and Parliament of the danger involved in the passage of said resolution, which if passed must stand as a precedent of innovation of provincial rights—fruitful of evil; and, in the name of the people of New Brunswick and invoking the protection of the constitution, the Executive Committee in Council protest against the passage of such resolution, and emphatically assert the right of the Legislature of New Brunswick to legislate upon all questions affecting the education of the country free from interference by the Parliament of Canada."

Sir, I say again that that protest is worthy of all praise, and one that hon. gentlemen opposite, and notably the hon. First Minister ought to lay to heart. That is not all. There is a State paper published by the First Minister in the New Brunswick School Bill containing a more effective protest even than that. The hon. gentleman shortly after the publication of the State paper from which I quoted had under consideration this School Bill, the solemn protests of the Roman Catholics of that Province against it, of the people, the clergy and hierarchy, and an earnest appeal to the Dominion Government to exercise in the public interest the power of disallowance, what answer did Dominion Government make to that appeal. The hon. gentleman says:

"One sole matter which presented itself to the Government was whether, according to the British North America Act of 1867, the Legislature of New Brunswick had exceeded its powers. As the officer primarily responsible on such subjects, he could only say that he had taken uniform care to interfere in no way whatever with any Act passed by any of the Provincial Legislatures if they were within the scope of their jurisdiction. There were only two cases in his opinion, in which the Government of the Dominion was justified in in advising the disallowance of local Acts. First, if the Act was unconstitutional and there had been an excess of jurisdiction, and, second, if it was injurious to the interests of the whole Dominion."

Sir JOHN A. MACDONALD. Hear, hear.

Mr. CAMERON. Does the hon. gentleman mean to tell us that, because Mr. McLaren's rights were prejudiced, according to his contention, the interests of the whole Dominion are affected by it? Is Peter McLaren the whole Dominion? Will the hon. gentleman undertake to tell this House that the interests of the whole Dominion are affected because the Government of Ontario undertook to pass a Bill protecting the public interest in the streams and creeks of Ontario? The hon. gentleman went on to say:

"In the case of measures not coming within either of these categories the Government would be unwarranted in interfering with local legislation.

"In the present case there was not a doubt that the New Brunswick Legislature had acted within its jurisdiction, and that the Act was constitutionally legal and could not be impugned on that ground.

"On the second ground which he had mentioned in which he con-

sidered the Dominion Government could interfere, it could not be held that the Act in any way prejudicially affected the whole Dominion, because it was a law settling the Common School system of the Province of New Brunswick alone.

"The Government of the Dominion could not act and they would have been guilty of a violent breach of the constitution, if, because they hold a different opinion, they should set up their judgments against the solemn decision of a Province in a matter entirely within the control of that Province."

Sir, I ask the hon. gentleman what can be clearer or more cogent than that? The hon. gentleman's line of argument is unanswerable, and because unanswerable the disallowance of the Streams Bill is wholly unjustifiable. The hon. gentleman sets up his opinion against that of the Government of Ontario, and a large majority of the people of Ontario. He sets up his views of the constitutional rule of to-day against that in which he has acted for fifteen years. As the hon. gentleman is in an unenviable position, as he cannot reconcile himself with himself, I leave the hon. gentleman just where he is.

Sir JOHN A. MACDONALD. How long?

Mr. CAMERON. Not longer than I can help. Now, Sir, as I have disposed of the hon. gentleman's practice and the hon. gentleman's precedents. Let me refer the House to one or two opinions of one or two eminent men on this subject, and then I have done. Lord Carnarvon, to whom as Colonial Secretary, was referred a resolution of the House of Commons respecting this same School Roll, says:

"That he laid it at the foot of the Throne, but that he could not advise Her Majesty to take any action in respect of it; that he could not advise the Queen to advise the Legislature of New Brunswick to legislate in any particular direction as that would be an undue interference."

Further on he says:

"Holding, as I have already explained, that the constitution of Canada does not contemplate any interference with the Provincial legislation, on a subject within the competence of the Local Legislature by the Dominion Parliament, or as a consequence by the Dominion Ministers."

Sir J. D. Coleridge and Sir G. Jessell say of it:

"Of course, it is quite possible that the new Statute of the Province may work in practice unfavorably to this or that denomination therein, and therefore to the Roman Catholics; but we did not think that such a state of things is enough to bring into operation the restricting powers of appeal to the Governor in Council."

And so I might quote Todd on the subject, who lays down precisely the same doctrine, but I am not disposed to extend the discussion any further. I have shown conclusively the rules laid down by the hon. First Minister himself. I have shown that for years he loyally adhered to the rules thus laid down. I have shown that whenever Local Legislatures encroached on the rules thus laid

down the hon. gentleman, did not disallow said legislation, but directed the attention of the Local Government to the obnoxious features of the Bill and allowed it to go into operation. I have shown that for a period of fifteen years, of all the local legislation passed by the various Provinces of the Dominion, not a single Bill of the Province of Ontario was disallowed with with the exception of the three already mentioned, and none without the Local Government having had their attention directed to the vicious features of such legislation. I have shown that the Streams' Bill was not in violation of the rules so laid down, that it was within the competency and power of the Local Legislature, and that its disallowance was an unwarranted interference with the rights of the Local Legislature. I have shown that this Bill was not only within the competency and power of the Local Legislature, but that it was a Bill in the public interest, in the interests of the lumbermen, in the interests of trade, and of the people of this country. I have shown that the Parliament of Canada has, over and over again, passed laws retroactive in their character, interfering with private rights, and overruling the judgment of the Courts. And now I say to the hon. the First Minister, to this House, and to this country, that if we submit to the interference, the unwarranted, unconstitutional, unjustifiable interference of the Minister of Justice in a case of this kind we may as well abolish Local Legislatures altogether, for they will be Parliaments only in name, not in substance, not in reality. And I say, further, that if we tamely submit to this unwarranted interference of hon. gentlemen opposite, or rather to that of the hon. Minister of Justice, we are tamely permitting the Dominion Government to strike a fatal blow at the autonomy, the rights, the powers, the independence of the Provinces. And I am not prepared to submit to that. Already Local Legislatures have been shorn of a considerable portion of the power supposed to have been secured to them under the Constitution. During this very Parliament the great Province of Ontario is about to be legislated out of the power it always had of dealing with County Court Judges. The hon. Minister of Justice, if we sanction and approve of what has been done with respect the Streams' Bill, will deprive the Province of the right of legislation, and if effect is given to the vote of a majority of this House, Ontario will be shorn of a large portion of her territory and of her territorial rights. I say then that this is not simply an Ontario question, but one that affects every Province of this great Dominion of ours, and every representative of every Province should solemnly protest against

this unjustifiable and unconstitutional interference by the Dominion Government with local legislation, because it is a direct violation of the terms on which we entered into Confederation; it is a violation, if not of the letter, at all events of the spirit of the Constitution. It reduces Local Legislatures to a position below that of County Councils. It makes the hon. the Minister of Justice, and not the Local Parliament, the Judge as to whether or not legislation is proper and in the interests of the people of the Province. It gives to the Dominion Government rights which the Constitution never contemplated they should have. But, Sir, I say we should do something more than protest before this high Court of Parliament; our protests here are vain, our warnings are unheeded. There is another and a higher Court to which we can appeal with every confidence that justice will be done—I mean the great Parliament of the people. To that court and before that tribunal, with firm faith in the justice of our position, I challenge hon. gentlemen to carry this question, and with an abiding faith, in the integrity and impartiality of that court I have no doubt of the result. Now, Sir, in order to give hon. gentlemen opposite an opportunity of being consistent, I beg to move the following resolution:—

That Mr. Speaker do not now leave the Chair, but that it be *Resolved*,—That in the opinion of this House, the power of disallowing Acts of a local nature conferred by "The British North America Acted 1867," is vested in the Governor General in Council, and that His Excellency's Ministers are responsible to Parliament for the action of the Governor General in exercising or abstaining from the exercise of the said power.

That it is of the essence of Federal principle as embodied in our constitution that the said power should be used only in cases where the law and the general interests of the Dominion imperatively demand it.

That it would impair the Federal principle and the independence, constitutional powers, autonomy and institutions of the several Provinces to allow of the exercise of the said power in regard to legislation on subjects within the exclusive competence of the Local Legislatures, on the ground that in the opinion of His Excellency's advisers, or of the Canadian Parliament, any such legislation is wrong.

That the question of propriety is under the Constitution one to be decided exclusively by the Local Legislature on its responsibility to the people of the Province who are the sole judges of such action.

That the only exception which has heretofore been proposed in such cases is where the measure prejudicially affects the interests of the Dominion generally.

That it has been the rule ever since 1868 not to exercise the power of disallowance on the ground that a measure is considered only partially defective or objectionable, as being prejudicial to the general interest of the Dominion without communication with the Provincial Government, nor (if the general interests permit such a course) until after the Local Government has an opportunity of considering and discussing the objections taken, and the Local Legislature has also had an opportunity of remedying the defects found to exist.

That it appears from the papers laid on the Table of this House that an Act passed by the Legislature of Ontario on the 4th March, A.D. 1881, and intituled: "An Act for protecting the Public interests in rivers, streams, and creeks," was disallowed by His Excellency in Council on the 19th day of May, A.D. 1881, by Order approving a

report which does not assert that the said Act is beyond the competence of the Local Legislature but expresses an opinion adverse to the propriety of certain provisions of the Act.

That the said Act was within the exclusive competence of the Local Legislature, and was not of such a nature as to render its provisions subject to the judgment of or disallowance by the Government of Canada.

That the Minister of Justice and the Government of Canada had, under these circumstances, no right to act on their opinion whatever it might be as to the propriety or impropriety of the said Act.

That it appears from the papers that no communication was had with the Government of Ontario on the subject of the said Act prior to the disallowance, nor was any opportunity given to the Government of considering or discussing the objections, or to the Legislature of Ontario to deal with the alleged defects.

That the papers laid on the Table show the importance of such communication ; and the danger of action by the Minister of the *ex parte* statement and argument of a Petitioner against the Act.

That the said exercise of the power of disallowance was not in accordance with the principle of the constitution, and that the said Act should have been left to its operation.