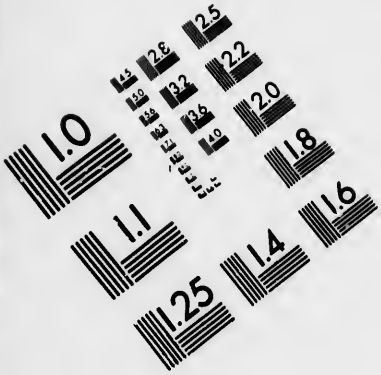

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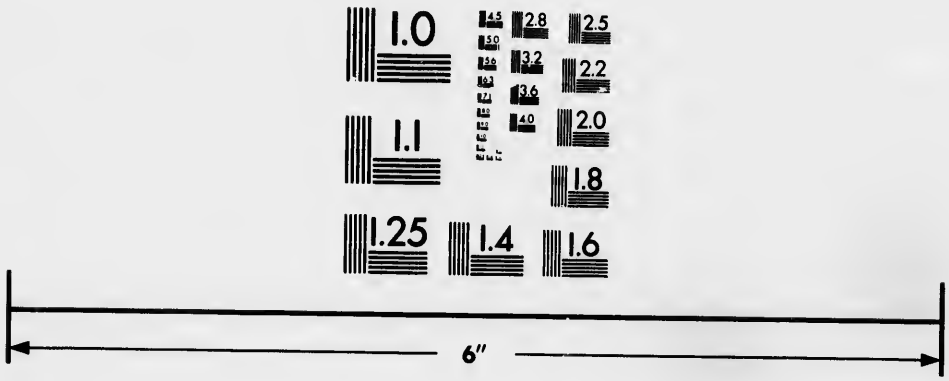

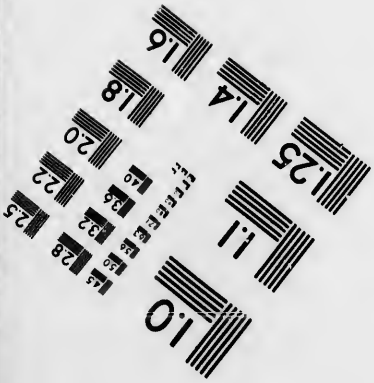

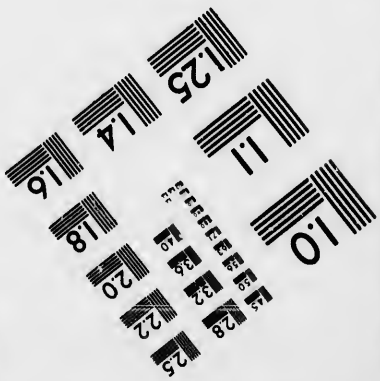

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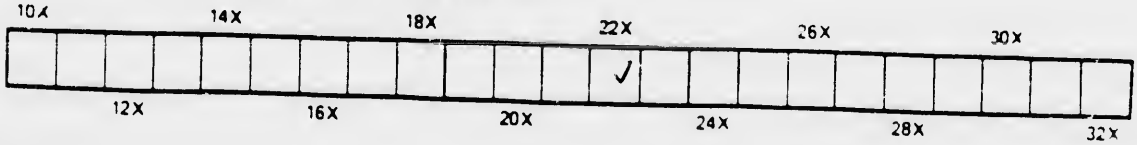

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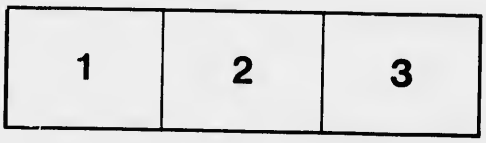

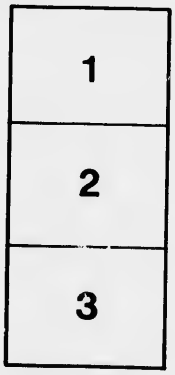

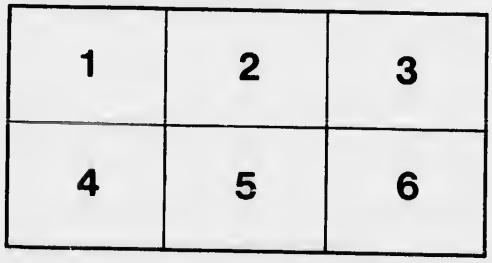

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1882.

12

ONTARIO'S RIGHTS.---THE BOUNDARY AWARD.

A Reference to Arbitration Repudiated.

Partizan Hate to a Liberal Province Manifested.

Ontario Denied her Territorial Rights.--Her Title to the Disputed Territory.

AN OLD CLAIM.

It is well known that Old Canada had always disputed the pretensions of the Hudson's Bay Company of right of ownership in the North-West Territories. The people of the United Provinces always maintained that they were the successors of France in the North-West, and in the country north of the water-shed to the Hudson's Bay. It was upon this ground that the North-West Company contested the claims of the Hudson's Bay Company, and continued to do so until the dispute was settled by thier partnership.

THE QUESTION RAISED AGAIN.

As the Territories lay far beyond the limits of settlement in Upper Canada, the question was not again raised until the time arrived for considering the renewal of the lease granted to the Company in 1838. This was late in 1856, when the Secretary of the Colonies informed the Governor-General of Canada that Her Majesty's Government had determined on bringing the whole subject under the investigation of a committee of the House of Commons; and His Excellency was instructed to consider with the advice of his Council, the question, whether it might be desirable to send witnesses to appear before the Committee, or in any other manner to cause the views of his Government and the interests of Canada to be represented there.

CANADA'S CLAIMS ASSERTED.

In reply to the Colonial Secretary's despatch, a minute of Council was transmitted, stating amongst other things, that "the general feeling here is strongly that the western boundary of Canada extends to the Pacific Ocean;" that the Committee of Council were most anxious that Canadian interests should be properly represented before the proposed Committee of the House; that situated as Canada was, she necessarily had an immediate interest in every portion of British North America; and that the question of jurisdiction and title claimed by the Hudson's Bay Company was to her of paramount importance. The Canadian Prime Minister of that time, it may be remarked, was Mr. John A. Macdonald.

THE LIMITS NORTH AND WEST.

In the same year (1857) an official paper was prepared by the Commissioner of Crown Lands, claiming that the westerly boundary of the Province extended as far as British territory not otherwise organized would carry it, which would be to the Pacific; or, if limited at all, it would be by the first waters of the Mississippi, which a due west line from the Lake of the Woods intersected, which would be the White Earth River, and with respect to the northerly boundary the Commissioner pointed out as the only possible conclusion that Canada was either bounded in that direction by a few isolated posts on the shore of Hudson's Bay, or else that the Company's territory was a myth, and consequently that Canada had no particular limit in that direction.

CANADA'S SPECIAL AGENT TO ENGLAND.

In responce to the Colonial Secretary's invitation, the Government sent Hon. Wm. H. Draper, as a special agent to represent Canadian interests before the House of Com-

mons Committee. He was examined before the Committee and gave evidence against the claims of the Company. Afterwards Chief Justice Draper reported to the Canadian Government, and gave as his opinion that Canada had a clear right, under the Act of 1774 and the proclamation of 1791, to the whole country as far west as the line of the Mississippi, and to a considerable distance north of the water-shed; and he recommended that the opinion of the Judicial Committee of the Privy Council should be obtained upon the merits of the dispute.

AN ABORTIVE MOVE,

In August, 1858, a joint address of both Houses was forwarded to the Queen, in which it was stated that in the opinion of Parliament, Canada had a right to claim, as forming part of her territory, a considerable portion of the country then held by the Hudson's Bay Company, and that a settlement of the boundary line was immediately required. The law officers of the Crown were consulted on the subject by the Colonial Secretary, and they expressed the opinion that, while a decision of the Judicinl Committee of the Privy Council might be useful in showing what were the merits of the pretensions of the respective parties, it could have no binding effect, and that an Act of the Imperial Parliament would be necessary to finally settle the question. But the Company, though strongly urged thereto by the Secretary, refused to be parties to a reference which would raise any question as to the validity of their charter, and no issue was reached. Sir John Macdonald, from inattention to the subject, seems to have fallen of late into the error of supposing that the Queen, upon the advice of the Judicial Committee of the Privy Council, could give a binding decision. The opinion of the law officers of the Crown as stated above, shows that the Judicial Committee could only make an award by the consent of the parties.

A COMPROMISE SETTLEMENT ADVISED.

The time of the Judicial Committee is so largely taken up with the consideration of judicial questions referred to them by appeal, that the propriety of inviting a report upon the matter in dispute between the Canadian Government and the Hudson's Bay Company, was felt to be more than doubtful. The question was complicated, the evidence was voluminous, and it was feared that a long time must elapse before a decision could be had. Accordingly, in 1865, the Government in a report made to the Governor General, expressed the opinion that it would be in the interest of the country to grant to the Company a moderate compensation rather than submit to the evils of delay consequent upon a reference to the Committee; but no action was taken upon the report.

STILL ASSERTING CANADA'S RIGHTS

After confederation the claims to the territory made by the old Province of Canada continued to be made by the Dominion Government, Sir John Macdonald being Prime Minister. In the first session of Parliament a joint address was presented to Her Majesty by the House of Commons and Senate, praying that she would be graciously pleased to unite Rupert's Land and the North-Western Territory to the Dominion. So little value did Sir John Macdonald then place upon the title of the company, that he urged the transfer of the whole country to Canada, leaving the company no right, except the right of asserting their title in the best way they could in the Canadian courts. "And what," he asked, "would their title be worth the moment it was known that the country belonged to Canada, and that the Canadian Government and Canadian courts had jurisdiction there, and that the chief protection of the Hudson's Bay Company and the value of their property, namely, their exclusive right of trading in those regions, was gone forever? The company would only be too glad that the country should be handed over to Canada, and would be ready to enter into any reasonable arrangement." He failed to get the territory handed over to Canada on those terms, but he succeeded in incurring the ill-will of the company's agents, and of the settlers in the North-West, and in stirring up a rebellion which cost the country more than a million of dollars.

SQUATTERS ON THE SOIL.

A second joint address on the same subject was adopted in 1869, and Sir George Cartier and Hon. Wm. Macdougall proceeded to England to press the views of the Government on the Colonial Secretary. In their correspondence with the Colonial Office, the rights of Canada were asserted in strong terms. Referring to a road between Lake of the Woods and Fort Garry, on Red River, upon which the Dominion Government had expended $20,000 in 1868, Sir George Cartier and Mr. Macdougall said there was no doubt that it lay within the limits of Canada; and concerning the extent of the Province they declared in the same letter to the Secretary that "no impartial investigator of the evidence in the case can doubt that it extended to and included the country between Lake of the Woods and Red River." The Government of Canada, they said, denied and had

always denied the pretensions of the company to "any right of soil beyond that of squatters" in the territory through which the Lake of the Woods and Fort Garry road was being constructed.

THE COMPANY'S CLAIM GIVEN UP.

So strong were the grounds on which the contention of the Canadian Government rested that the Hudson's Bay Company, composed of some of the shrewdest business men in England, and acting under advise of the ablest counsel, gave up their claim to 1,300,000 square miles of territory in consideration of being allowed to retain 12,000 square miles of it, and of receiving £300,000 sterling—about one-fifth of the sum paid by the United States for the comparatively barren region of Alaska, less than one-fourth of the area. The company feared that the legal boundaries of Ontario, if submited to an impartial tribunal, would be held to include the bulk of territory which Canadian ministers claimed for it; hence the small sum for which they agreed to release their interest.

ADMITTED INTO THE UNION.

Rupert's Land and the North-West Territory were admitted into the Union by an Imperial Order-in-council, dated 23rd June, 1870, subject to the provisions of the British North America Act. The Order-in-council did not and could not take away any part of Ontario's territory, for the B.N. A. Act specifically declares that the territory "which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario." There is, therefore, no doubt whatever that the boundaries of Ontario to the north and west are the old boundaries of Upper Canada.

A NEW DEPARTURE.

It has been shown that up to the time of the admission of the North-West into the Union the successive Governments of which Sir John Macdonald was leader, maintained for Upper Canada (the Ontario of confederation) limits far to the west and to the north of those which his government is now willing to allow her. But once the bargain with the Hudson's Bay Company was concluded, the views of Sir John Macdonald and his follow-ministers underwent a great and sudden change; a new departure was taken, and they sought to grasp from the Province a territory many thousand square miles in extent, a part of which the company had never claimed under its charter. Some steps had been taken for defining the boundary in 1871, and Commissioners had been named by the Local and Federal Governments to locate the line. Nothing further was done that year, and before its close a new Administration was formed in the Province with Mr. Edward Blake at its head. On the 6th of January, 1872, the new Government asked that a draft of the instructions to the Dominion Commissioner be transmitted for consideration. The request was complied with on the 11th of March, and then it became known that the Dominion Government insisted on a line drawn due north from the junction of the Ohio and Mississippi rivers as the westerly boundary, and on the height of land dividing the waters which flow into Hudson's Bay from those emptying into the valley of the great lakes as the northerly boundary of the Province. The Ontario Government declined to accept those limits, claiming that the boundary line was very different from the one defined by the Dominion Government's instructions, and its Commissioner was instructed to abstain from any further action under his commission. A conventional or compromise boundary proposed by the Provincial Government met with no response,—Sir John Macdonald apparently forgetting the fact that the Government of which he was a member was prepared to make a compromise with the Hudson's Bay Company in 1865.

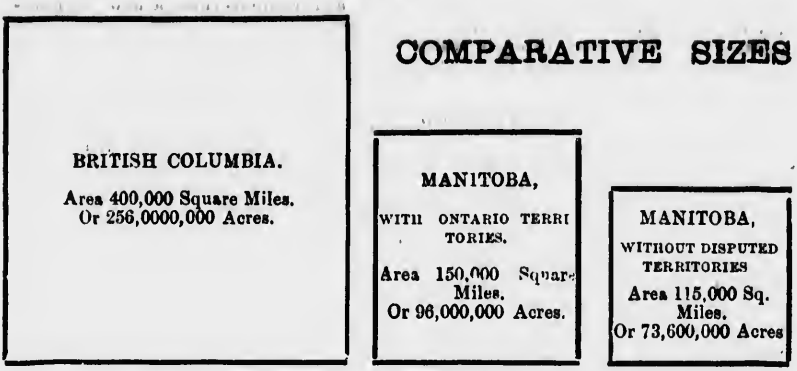
SUGGESTION AND COUNTER SUGGESTION.

In a memorandum of 1st May, Sir John Macdonald suggested that the Government of Ontario be invited to concur in the statement of a case for immediate reference to the Judicial Committee of the Privy Council of England, with a view to settle the boundaries by a judgment or decision of that tribunal. On 31st May the Ontario Government in reply stated that the settlement of the question depended upon numerous facts, the evidence as to many of which was procurable only in America, and the collection of which would involve the expenditure of much time—recommended as a counter-suggestion that should the Government of Canada decline to negotiate for a conventional line, the more satisfactory way of settling the question would be by reference to a Commission sitting on this side of the Atlantic. On November 7th the proposition of the Dominion Government for a reference to Her Majesty in Council was renewed, but no further negotiations took place until the accesison of Mr. Mackenzie to office.

THE ARBITRATION.

In 1874 both Governments agreed to leave the question to arbitration, and to accept the award as final and conclusive. Ex-Governor Wilmot, of New Brunswick, was chosen for the Do-

COMPARATIVE SIZES



The above "squares," based upon a scale of 100,000 square miles to the inch, show at a glance the relative sizes of the four Provinces of British Columbia, Quebec, Ontario, and Manitoba; of the Province of Ontario, with and without the disputed territory: and lastly of the Province of Manitoba, as enlarged (without disputed territory), and with the disputed territory.

Ontario under the award, 197,000 square miles, or 126,000,000 acres. Ontario without the disputed territory, 100,000 square miles, or 64,000,000 acres. Manitoba as enlarged by part of the disputed territory 115,000 acres. Manitoba without any of the disputed

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minion, and Chief Justice Richards for Ontario, Sir Edward Thornton, the British Ambassador at Washington, being accepted by the two Governments as third arbitrator. Information was from time to time given to Parliament and the Legislature with respect to the progress of arrangements for this reference, and the policy of fixing the boundaries by arbitration was never questioned. Sir John Macdonald once, in the debate on the North-West Territories Bill in 1875, expressed regret that the matter had not been referred to the Privy Council, but added that the arbitrators "would be acceptable, he was satisfied, to the country, as they were to himself." The sum of $15,000 was also voted by Parliament for defraying the expenses of the arbitration, and no question was raised or objection made. The death of one arbitrator and the resignation of another was followed by the appointment of Sir Francis Hincks for the Dominion, and Chief Justice Harrison for Ontario. Both appointments were confirmed by Orders-in-Council, and it was again declared that the determination of the three referees should be final and conclusive; and each Government agreed with the other for concurrent action in obtaining such legislation as might be necessary for giving binding effect to the conclusions arrived at.

THE AWARD.

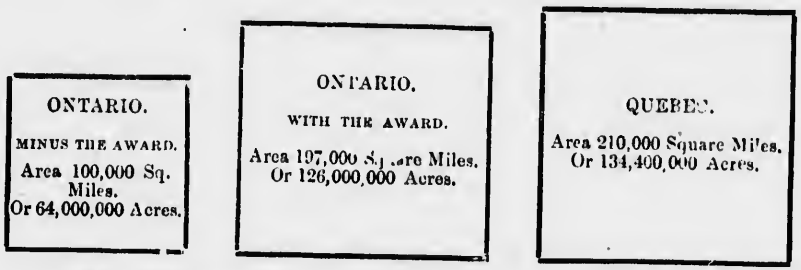
From 1874 to 1878 both Governments were occupied in making an exhaustive collection of all the documents, facts and evidence bearing upon the controversy, all of which were printed for the purposes of the arbitration. Counsel for the two Governments were heard by the arbitrators, and on August 3rd, 1878, an unanimous award was delivered, determining and deciding what are and shall be the northerly and westerly boundaries of Ontario. The westerly boundary was declared to be a line drawn due north from the most north-westerly angle of Lake of the Woods, and the northerly boundary the southern shore of James' Bay, the Albany River, and the English River. It gave to the Province on its westerly side the least favorable limit that on the facts and evidence was possible, as was demonstrated by a mass of evidence which there appears no danger of ever seeing overcome.

The Government of Ontario accepted the award, not because it assigned to the Province all that was claimed on its behalf, but because consistently with good faith and public honor, neither party to the arbitration could refuse to abide by the decision.

SHILLY-SHALLYING.

Mr. Mackenzie's Administration was defeated at the general elections of September, 1878—less than two months after the boundary award was made—and a few weeks later Sir John Macdonald formed a new Administration. One of his first acts as Minister of the Interior was to publish a map in which the boundaries of Ontario were laid down as fixed by the award; but the old hostility soon manifested itself afresh, and backed by Sir Hector Langevin

OF THE LARGER PROVINCES.



territory, 115,000 square miles, or 73,600,000 acres. Quebec, 210,000 square miles, or 134,400 000 acres. Repudiation of the awarded deprives Ontario of the region north of the height of land, which goes to no other Province, 62,000 square miles, or 39,680,000 acres. And adds to Manitoba 35,000 square miles, or 22,400,000 acres. Amount of lumber in district added to Manitoba 27,000,000,000 feet. Value of this lumber to Ontario $125,000,000. Loss per head to the people of Ontario from timber alone **$65**. Total loss to each ratepayers not less than **$309**. An annual tax forever on each taxpayer of **$15**.

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and the phalanx of Quebecc Tories, the Premier found courage to pursue towards the Liberal Government of Ontario a policy of studied contempt. At least eight despatches from the Lieutenant-Governor of that Province, bearing on the award and urging the necessity of action being taken by the Dominion Government in the interests of law and order in the disputed territory, were treated with

UNMANNERLY NEGLECT.

Their receipt was formally acknowledged, but no answer was made nor further notice taken of any of them. It made no difference that law was being set at defiance in the territory, that crime went unpunished, that drunkenness and immorality prevailed, that public lands were being robbed of their timber, or that there was no security for life or property. For three years Sir John Macdonald and his colleagues refused to have any dealings with the Government of Ontario on the subject. A ninth despatch was sent on the 31st December of last year, and on the 17th January this year the Legislature of the Province met. The debate on the address opened out a discussion of the whole situation and all the circumstances, and then the Tory Premier of the Dominion discovered that he could pursue a policy of contempt no longer.

REPUDIATION.

A reply to the despatch of 31st December was sent on the 27th January, and the Government and people of Ontario were informed officially, what had been evident for some time, that the Dominion Government had determined, in violation of good faith and public honor, to repudiate the award. This course had been indicated by the conduct of the Government in the session of 1880 in consenting to a Parliamentary Committee for the professed object of enquiring into and reporting upon all matters connected with the Ontario boundaries. No new or material evidence was obtained by the Committee, but by a party vote the opinion was expressed in its report that the award did not describe the true boundaries of Ontario, and that it included within that Province territory to which, the Committee asserted, the Province was not entitled.

ENLARGING MANITOBA.

This action was followed up in the session of 1881 by a Government measure enlarging the boundaries of Manitoba. Sir Alexander Campbell when introducing the Bill in the Senate plainly affirmed that the intention was to give to that Province the whole tract of country eastward as far as the meridional line claimed by the Dominion Government to be the westerly limit of Ontario, embracing a territory 39,000 square miles in extent, which had been declared to be part of Ontario by the award of the arbitrators. In the House of Commons Sir John Macdonald avowed as an object of the Bill that it would "compel" the Government of Ontario not to insist on the awarded boundaries, and he assured the House that the Government of that Province would "come to terms quickly enough when they

find they must do so." This undertaking to "bulldose" Ontario was of a piece with the undertaking to "bulldose" the Hudson's Bay Company ten or twelve years previously.

ALLEGED REASONS FOR REJECTING THE AWARD.

The alleged reasons of the Dominion Government for rejecting the award are, that the reference to arbitration "transcended the power of the Government of the day;" that the matter should be "considered rigidly as one of law;" and that His Excellency's present advisers were "opposed to disposing of the question" by arbitration, conceiving that mode to be "inexpedient and lacking in legal authority." It is a sufficient answer to those objections to say that the reference was made with the sanction of the Dominion Parliament, and that both Governments concerned pledged their good faith to a settlement of the question procured in this way. A further answer is, that arbitration is the usual way of settling such disputes, and that it is a reasonable way. The boundary between Canada and New Brunswick was settled by arbitration; so also was the San Juan dispute. Sir John Macdonald himself was a party to referring the San Juan question. Even now he proposes, after repudiating the award of one set of arbitrators, to refer the dispute to another set—to some "eminent English legal functionary," or to the Judicial Committee of the Privy Council, neither of which could give a decision in any way more binding than the one already given.

A CONVENTIONAL LINE.

But it is said the award established a conventional line instead of a legal one. That is not true. All the evidence was considered and the arguments of counsel heard. The arbitrators were appointed to find the true legal limits of the Province, and their award declares that they found it. They did not give advice, but they pronounced a decision. On what pretence, then, of reason or justice can a demand be made for reopening the case? If the Government of Canada do not feel themselves in honor and good faith bound by the award which has already been made, Ontario has no reason to suppose that they would not quite as readily repudiate any subsequent decision.

THE QUEBEC TORIES.

Sir Hector Langevin has put his foot on the award because he professes to fear that it would give Ontario too great strength in the Confederation, which would increase with the development of its territory. His real motive is a desire to break down the Liberal Government of Ontario, and so ensure the continuance of Tory misrule in the Dominion. He and his Tory following have influenced the press of their Province to create a feeling against the award, and to cry down as traitors the Quebec Liberals who voted against reopening the boundary case and breaking faith with one of the Provinces of the Union. It is hatred and jealousy of Liberal progress in Ontario that prompts the hostility of Quebec Tories to the award, and Ontario Tories, obedient to the crack of Sir John Macdonald's whip, have joined hands in repudiating it by their votes on Mr. Pumb's motion to reopen the case and to refer it to another tribunal.

IS ONTARIO TOO LARGE?

But is Ontario too large, as the Quebec Tories profess to fear? Whatever was her extent as the Province of Upper Canada, that is her extent now, and she is entitled to her full measure of territory, be it great or small. She has never shown a disposition to be unjust to other Provinces of the Union, or to rule by the right of the strongest. How does she compare in area with the other Provinces? The diagrams at the head of this page will illustrate at a glance their relative extent, and will show that Ontario, with all the territory given by the award, is still smaller than Quebec or British Columbia.

The loss of the territory in dispute, it will be seen, would reduce the area of Ontario to 100,000 square miles. Why should the area of that Province be reduced to less than half the area of Quebec? or to less than one-third the area of British Columbia? Or why should the area of Ontario be reduced, and that of Manitoba extended, until Manitoba shall have an area one-half greater than Ontario? Can Sir Hector Langevin and the Quebec Tories, who say that Ontario would be too large, answer these questions?

AS A POLITICAL ISSUE.

Liberals, fair-minded men, honorable men and true Canadians in all Provinces of the Dominion have a vital interest in maintaining the cause of Ontario in the present struggle. The independence, if not the very existence of the Local Government is at stake. If they are to be crushed out on any pretence by an adverse political party in office at Ottawa, what guarantee is there for the maintenance of self-government and provincial rights? To tolerate such conduct on the part of the Dominion Government is not only to place a premium on public dishonor, but to prepare the way for the disruption and dismemberment of the Union. Were any independent State to pursue the course towards another which

the Government of Canada has adopted towards the Province of Ontario, it would be held guilty of a gross breach of th— of dishonorable conduct which would lead to an immediate discontinuance o all diplomatic relations.

AS AN ONTARIO ISSUE,

the boundary question concerns every man within its borders. It is not merely whether that Province shall be ruled by one party or another, but whether she shall be despoiled of half her territory--of a country rich in mineral and forest wealth, which may be to her Government a source of revenue for all time. That is a large consideration to pay for the doubtful gain of defeating Mr. Mowat's Government, and gratifying the hatred of Sir John Macdonald and his Quebec allies. Every Ontario man who voted for Mr. Plumb's motion should be a marked man in his constituency; he should be regarded as an enemy of his Province, and he should receive at the hands of the people an enemy's reward.

The Right of Canada to make her own Treaties.

On the 21st of April, 1882, Mr. Blake moved the resolution in the House of Commons, which is given below. In the course of an eloquent and convincing speech, he pointed out the following as reasons for presenting the resolution, and asking the House to affirm the principle embodied in it.

That the drift of events in all British Colonies was towards the Federative system, with constantly enlarging powers of self government, and that Canada, was the most advanced of any colony in political development, in familiarity with the principles and practice of self government, in self reliance, and ability to manage her own affairs, and that she possessed a vast area; and resources of enormous extent.

That our position as the neighbor of a powerful and kindred people, with 3,000 miles of conterminous boundary, necessarily brought us into the most intimate relations with the United States, and that in all matters pertaining to those relations we were the best judges of what we wanted.

That our maritime interests, and our manufacturing, lumbering, agricultural, and fishing interests are largely developed; that we now control our own trade, and impose such duties as we please, and practically control our own trade relations; the direct and immediate control of which should be assumed by us.

That our manufacturers in many things already supply the home market to the full, and that for these articles we require larger markets; for which we ourselves know best how to seek.

That we have, and must continue to have high tariff rates, and as England's object, in all trade negotiations, is to persuade nations to abolish tariffs, and accept the principle of free trade, our position is antagonistic to hers, and that in dealing with a protectionist nation we should be able to meet them upon equal ground, and divested of the English prejudices that will almost always prove an obstacle to successful negotiation.

That in making treaties England has regard as a rule only to the interests of her own trade, and that treaties involving our interests have to pass through the Foreign Office, where comparative ignorance of our wants and situation prevails, and where procrastination and delay are liable to prove fatal to the realization of our desires.

That the record of England's domestic management of Canadian interests, furnishes a history of blunders, errors and concession, often involving us in difficulties, and that the power to manage our own negotiations, and make our own treaties, would not prevent our seeking England's aid when it would be of advantage.

That in case the power to make her own commercial treaties were possessed by Canada, England's interest would be amply secured by the power of disallowance which she possesses by virtue of the British North American Act.

The motion submitted by Mr. Blake upon motion by Sir Leonard Tilley to go into Committee of Supply, was as follows:

Mr. BLAKE moved in amendment, that Mr. Speaker do not now leave the chair, but that it be Resolved, That Canada no longer occupies the position of an ordinary dependency of the Crown; she numbers four millions of freemen trained in the principles of constitutionol Government; she comprises one half of the North American continent, including seven Provinces federally united under an Imperial Charter, which recites that her constitution is to be similar in principle to that of the United Kingdom: and that she possesses executive and legislative authority over vast areas in the North-West, out of which one Province has already been created, and in time others will be formed.

That special and increasing responsibilities devolve upon the Government and

Parliament of Canada in connection with the development of her resources, the improvement of her condition, her general progress in the scale of nations, and her geographical situation which renders her even more responsible, than the Government of the United Kingdom for the maintenance of international relations with the United States.

That having regard to these considerations, there is no possession of the Crown, beyond the limits of the United Kingdom which is entitled to such an ample measure of self-Government, or so full an application of the principles of constitutional freedom, as the Dominion of Canada.

That it would be the interest of Canada to obtain freer access to the markets of the world; and that a more extended interchange of commodities with other countries would augment the national prosperity.

That in most of the treaties of commerce entered into by England, reference has only been had to their effect on the United Kingdom, and the colonies have been excluded from their operation, a fact which has been attended with unfortunate results to Canada, especially as relates to France.

That the conditions of Canada, and the system on which her duties of Customs have been, and are now imposed, vary widely from those existent in the United Kingdom, and open to the basis and negotiation of commercial arrangements with other States or British possessions, views and considerations which do not apply to the case of, or harmonize with the policy of the United Kingdom; which it is difficult for the Government of the United Kingdom to advance; and which can be best realized and presented by the Government of Canada through a negotiator named by her for the purpose of providing separate trade conventions with countries, with which Canada has, or may expect distinct trade.

That the complications and delays involved in the reference to the Departments of the Government of the United Kingdom of points arising in the course of trade negotiations enhance the difficulties of the situation, and diminish the chances of success; and have already resulted in loss to Canada.

That it is expedient to obtain all necessary powers to enable Her Majesty, through her representative, the Governor General of Canada, acting by and with the advice of the Queen's Privy Council for Canada, to enter by an agent or representative of Canada, into direct communication with any British possession or Foreign State, for the purpose of negotiating commercial arrangments, tending to the advantage of Canada, subject to the prior consent, or the subsequent approval of the Parliament of Canada signified by Act.

The motion was lost. Nays 58. Yeas 101. Six Government supporters voted for the resolution, viz., Girouard (Jacques Cartier), Houde, Ouimet, Coursol, DeCosmos and McDougall.

Duties Upon Cottons and Woollens.

The Poor pay Higher Rates than the Rich.

On April 26, 1882, upon motion made by Sir Leonard Tilley to go into Committee of Supply,

Mr. ANGLIN moved in amendment, that Mr. Speaker do not now leave the chair, but that it be Resolved,—That the system and scale of duties on cotton and woollen goods have resulted in the imposition of a rate of taxation on those articles chiefly used by the masses inordinately high and greater than the rate imposed on those articles chiefly used by the rich, and that the said duties should be amended so as to reduce the rate of taxation on the masses, and to make it more nearly proportionate with that levied on the rich.

THE POOR MAN'S WOOLLENS TAXED UNDULY.

In support of this amendment facts were laid before the House by Mr. Anglin and Mr. Blake that set forth the inequalities and the injustice of the tariff to the great bulk of the consumers in a striking light. It was shown that as regards woollen goods the rate of duty is much higher upon the cheap kinds than upon the better grades, being upon the average twice as great upon the lowest grades as upon the highest. Blankets, costing in England 1s. 11½d. per pound pay a duty of 35 per cent.; costing 1s. 5d. per pound, duty 43 per cent.; costing 1s. 1d. per pound, duty 49¼ per cent.; costing 9d. per pound, duty 61 per cent.; costing 7½d. per pound, duty 70 per cent. Heavy pilot cloths, pay 50 to 80 per cent. While various grades of cheap cloth pay from 39 to 50 per cent. duty; expensive Scotch tweeds pay from 23½ to 25 per cent., and fine broad cloths 23 per cent. In every case the duty is found to bear most heavily upon the purchasers of the cheaper kinds of woollen goods, and consequently imposes heavier burdens upon the poor than upon the rich.

THE POOR MAN'S COTTONS TAXED UNDULY.

In cotton goods the same state of matters

is found to exist. The duty upon the cheaper class of goods is much higher than upon the better grades, the average being 30 per cent. on grey and bleached cottons 35 per cent. on plain and striped denims, and 45 per cent. on the cheaper grades of heavy colored shirtings. On Congress shirting, a superior article worn by the rich and well-to-do, and costing the importer 11⅞ cents per yard, the duty is 23 per cent.; while on Oxford shirting, a cheap grade worn by the poor, and costing the importer 5¼ cents, the duty is 42 per cent. A great number of instances might be cited, but the above will suffice. The assertion holds good in all cases that the woollen and cotton goods required by the poor are taxed much more heavily than the higher and more expensive grades of goods worn by the rich

PRICE OF COTTONS STEADY IN FOREIGN MARKETS.

The variations in the cost of raw cotton since 1879 have not been sufficient to exercise any marked influence upon the price of goods and the assertion that any advance in Canadian goods has been coincident only with an advance in the foreign article is not correct. Two short tables showing the range of prices in England in particular articles will illustrate this. We will first give the quotations of the celebrated Horrock, Miller & Co. in "A" cottons:

December, 1878	3¼d
March, 1879	3d
August, 1881	3⅜d

We will next give the quotations of Finlay & Co. in "J" shirtings:

January, 1878	3⅞d
" 1879	3⅝d
" 1880	3½d
" 1881	3¼d
" 1882	3⅛d

These instances will suffice to show that the market abroad for cotton goods has been steady during the above period. During that same period there has been a material advance in the price of Canadian domestic cottons.

We will first take the two brands of Hochelaga grey cottons most extensively used, as an evidence of the sharp increase in price since the duties were raised:

Grey	H. H.	cotton—Jan.,	1879—7·17c
"	"	" Year,	1879—7·40c
"	"	" Dec.,	1881—8·62c
"	XX	" Jan.,	1879—8·09c
"	"	" Year,	1879—8·32c
"	"	" Dec.,	1881—9·37c

We will next take two grades of Valleyfield bleached cottons, again selecting the brands most largely consumed:

Bleached	X	cotton—October,	1878—5·40c
"	X	" May,	1879—5·85c
"	X	" Year,	1879—5·92c
"	X	" Dec.,	1881—7·12c
"	OO	" Oct.,	1878—7·42c
"	OO	" May.,	1879—7·87c
"	OO	" Year,	1879—7·95c
"	OO	" Dec.,	1880—9·12c

Want of space prevents entering more largely into proof of material advance of price in Canada. The above, Hochelaga and Valleyfield quotations of grey and bleached cottons will serve as illustrations, and a careful comparison of the prices of the various grades of Canadian grey cottons shows that the average increase of price at the mill between December 31st, 1879, and December 31st, 1881, is 14 per cent., while the increase of duty upon the same class of goods amounts to 12½ per cent. It is absurd to talk about the increase in the tariff having no effect upon the price of Canadian goods, for the facts uniformly show that Canadian goods are sold just far enough under the cost of the imported article to enable the Canadian manufacturer to secure the sale; and to effect this a slight concession only is necessary.

INCREASED COST OF GOODS DUE TO THE TARIFF.

The effect of the tariff has been to impose an enormously added tax upon the goods we buy of Great Britain and the United States. The cost of Canadian cottons is, on the average, over 25 per cent. higher than the same goods could be imported for free of duty, which increases the cost of our domestic production to the consumers of the country to the extent of $1,000,000 per annum. Our imports of cotton goods last year paid a duty of $2,271,937, which was $486,156 more than would have been paid under the old tariff. Our imports of woollen goods last year paid a duty of $2,345,627, which was $815,773 more than the same goods would have paid under the old tariff. The Canadian consumers, therefore, paid in the fiscal year 1880-1 $1,301,929 more for imported cottons and woollen goods than would have been paid under the previous tariff and in addition paid a sum exceeding the increased duties, for increased cost of Canadian cottons and woollens due to the increase of tariff rates.

ENORMOUS PROFITS OF COTTON MILLS.

Before the change of the tariff Canadian cotton mills were making profits that ought to have been satisfactory, and in the natural course of events those profits would have largely increased without any tariff changes, as soon as the depression in the United

States passed away and slaughter sales ceased. The change in the United States that brought about a great revival there and in Canada took place in 1879. But even without an improvement in the business of our cotton mills such as a revival in trade was sure to bring, they did not need additional protection. The Hochelaga mill made 27 per cent. upon its capital in 1878, and it is believed that none of our cotton mills made less than 10 per cent. that year.

Since the change in the tariff Canadian cotton mills have made profits so enormous that the attempt in many instances has been made to conceal the amount by watering stock and applying earnings to enlargement of capacity.

The Hochelaga mill had a capital of $400,000 in 1878. The stock has since been watered by one-third the original amount. The cash dividend the last few years has been 10 per cent—equal to 13⅓ per cent. on the original amount. Since the new tariff the mill and machinery has been doubled and then trebled out of the earnings. The watered stock is worth $275, and the actual net profits on the real *bona fide* capital of $400,000 is 50 per cent. per annum.

The Valleyfield mill, which has not been in operation as long as the one in Hochelaga, was started with a capital of $374,000. That stock has been watered up to $500,000. The dividend last year was 20 per cent.. equal to 27 per cent. on the actual cash stock, besides which $23,000 was set aside to rest account and $15,000 spent in improvements and additions, thus making the actual net profits on the original stock 37 per cent. The stock of this company is worth 187, equal to $215 on each $100 of the actual cash stock originally invested.

The discussion upon the motion clearly proved that the duties upon cottons and woollens are unequally distributed and bear harshly and cruelly upon the poor. The plea of necessity cannot be raised, for we have a large surplus revenue. The cotton manufacturers are not entitled to the increased protection mainly at the expense of the poor and the middle classes, for their profits were high enough before the duties were raised and are now enormously and unjustly high. The amendment asked for the redress of a grievance affecting the great mass of the population of Canada, and in the interest of justice and fair play it should have been granted without a dissenting voice. It was rejected by a strict party vote. Yeas, 52; Nays, 118.

PROVINCIAL RIGHTS ASSAILED.

Disallowance of the Streams Bill

The fullest liberty of action by the Provinces, within their true constitutional limits is the only safety of the Federal system of Canada. The British North America Act of 1867 was a solemn compact, under which local control over local affairs was guaranteed. Under that Act the Dominion Government has no more right to interfere with the constitutional legislation of the Provinces than a Local Government would have to interfere wita the legislation of a municipal council. When the question of Confederation was under discussion the necessity of allowing the fullest liberty of action to the Provinces within their own jurisdiction was frequently pointed out, and no sooner had we entered upon a trial of the new system than the propriety for defining the conditions upon which local legislation would be interfered with became apparent.

On the 8th of January, 1868, Sir John Macdonald prepared a State paper in which he dealt with the question of disallowance as follows:

"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 it 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 and 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."

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 had 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.

THE BILL GENERAL.

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

1. From clause 1 it is quite clear that the Bill applies to all streams—and the privilege of floating logs etc. down those streams are equally open to all persons, subject, of course, to the provisions of the Act.

2. By clause 2 it is declared that the mere construction of works on a stream to facilitate the passage of logs etc., does not give to the person constructing such works an exclusive right to their use. In other words the stream is regarded by law as a public highway, improvements on which does not exclude the public from the right to use it, subject to certain conditions.

3. That while the construction of works to improve the floatability of streams does not give the party so improving them an exclusive right to their use, it debars all others from using such property without paying for the privilege.

4. That the tolls to be paid for using such streams is to be regulated by the Lieutenant-Governor in Council, and in fixing such tolls, he is to take into consideration the cost of building the works, maintaining them, the interest on the outlay and such other matters as may be thought just to all parties.

5. That the logs floated through such improvements may be held as security for the payment of all such charges.

6. That rules may be made by the person owning the works for regulating the passage of logs so that one man's timber may not interfere with the free movement of another man's, such regulations being subject to the approval of the Lieutenant-Governor in Council.

BILL REASONABLE.

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

SPECIAL EFFECT OF THE ACT.

This Act, so general in its application and so clearly framed in the public interest applied in the first instance to a difficulty existing between two lumbermen owning large timber limits on the Mississippi—a tributary of the Ottawa. It seems that one of them, Peter McLaren, had made certain improvements on this river for his own benefit and at a large cost. H. C. Caldwell, the other, owned limits above McLaren, and in order to get his timber to the market it was necessary to pass through McLaren's slides. He was willing to pay for the use of McLaren's improvements, but was refused, and lest he should proceed to use them McLaren applied to the Court of Chancery for an injunction to restrain him. The case was before the Courts when the Streams Bill passed the Ontario Legislature and even without the favorable decision of the Court which he afterwards received. Caldwell by this Act would have the right to use McLaren's improvements by paying for them. The only way to prevent this was to secure the disallowance of the Bill. As a well known and influential Conservative he had a strong claim upon the Government. His Counsel was a prominent member of the party also, and no matter how much the public as well as Caldwell might be inconvenienced or how much the revenue of Ontario might suffer the disallowance of the Bill must be secured. Accordingly he petitioned the Minister of Justice to that effect, and on the 17th of May, six weeks after the Bill was assented to, without giving notice to the Government of Ontario as Sir John Macdonald declared in 1868 should be done and as had always been done, the Minister of Justice—the Hon. James Macdonald—recommended the disallowance of the Bill in the following terms:

"I think the power of the Local Legislature to take away the rights of one man and vest them in another as is done by this Act is exceedingly doubtful, but assuming that such right does in strictness exist, I think it devolves upon the Government to see that such powers are not exercised in flagrant violation of private rights and national justice, especially when as in this case, in addition to interfering with the private rights alluded to, the Act overrides a decision of a court of competent jurisdiction by declaring retrospectively that the law always was and is different from that laid down by the Court."

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

"property and civil rights" are exclusively within the jurisdiction of the Local Legislature, and it was never pretended that such interference was any ground for disallowance. Speaking on the subject of provincial rights, Mr. Todd, in his valuable work on "Parliamentary Government in the Colonies," says:

"It was the intention of the Imperial Government (in passing the British North America Act) to guard from invasion all rights and powers exclusively conferred upon the provincial authorities, and to provide that the reserved right of interference therewith by the Dominion Executive or Parliament should not be exercised in the interest of any political party or so as to impair the principle of local self-government." Besides, during the last fifteen years, scores of Bills were passed interfering with private rights, none of which were disallowed.

A QUEBEC ACT.

A Bill passed by the Legislature of Quebec respecting the Union St. Jacques Society, Montreal, provided for the enforced commutation of the existing rights of two widow ladies, who, at the time it was passed, were annuitants of the society, and compelled them to take such a sum in lieu of their annuity as was, in the opinion of the Local Legislature, just. This Bill was sanctioned by Sir John Macdonald, notwithstanding its interference with private rights.

GOODHUE WILL CASE.

The Hon. George Goodhue, by his will, devised a life estate in his property to his children, with a reversionary interest therein to his grandchildren, some of whom were minors and living out of the Dominion of Canada. Certain trustees were appointed to carry out the condtions and trusts of the will. The children were dissatisfied with the conditions and trusts created by the will, and by an agreement between themselves made other disposition of the estate, in fact made a new will for Mr. Goodhue. They applied to the Local Legislature for an Act to confirm such disposition. The Bill was protested against by the trustees on the ground that it was retrospective, that it created a new will, that it took property out of the hands of one class and vested it in another, and that it dealt with the property of minors outside the Dominion of Canada. The Local Legislature passed the Bill. It received the sanction of the Lieutenant Governor. The trustees petitioned the Dominion Government to disallow it, but Sir John Macdonald, to whom, as Minister of Justice, the Bill was referred, reported: "That though strongly protested against it should be left to its operation on the sole ground that it was within the competence of the Local Legislature."

TIMBER LICENSES.

Acting under the authority of a timber license received from the Government of the late Sandfield Macdonald, Peter McLaren (whose case is now under consideration) proceeded to cut down timber on the road allowances in his limit. An action was begun against him by the municipal corporations interested on the ground that the road allowances were their private property. Judgment was given in their favor by the Court of Common Pleas on the ground that the Local Government had no right to grant a license to cut timber on property that did not belong to it. The case was carried to the Court of Appeal, but, while pending, the Local Legislature, under the direction of the late Sandfield Macdonald, and at the instigation of McLaren, passed an Act, one of the clauses of which reads as follows: "Every Government road allowance included in any timber license heretofore granted shall be deemed to be and to have been ungranted lands." Here was property that belonged to a municipality leased by the Government to a private individual, and, while the case was pending before the Courts, the Legislature passes an Act transferring the property from the municipalities to which it was held by the Courts to belong to this same Peter McLaren. The second clause provided:

"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."

That was an Act that was retrospective in its operation, that directly interfered with private rights, that took the property from one person and vested it in another without compensation, that overruled the laws of the land the rights of private parties and the judgment of the Court. The Corporation of the County of Frontenac petitioned against this Act, but Sir John McDonald allowed it with all its objectionable features. In his memorandum to Council on this Bill he said: "It is clearly within the competence of the Local Legislature, and the undersigned recommends that it be left to its operation."

NEW BRUNSWICK SCHOOL BILL.

By an Act passed by the Legislature of New Brunswick in 1871 the Roman Catholic population of that Province felt that their rights were encroached upon by being required to contribute for the maintenance of a system of education in regard to which they had conscientious scruples. One would naturally suppose that if there was any

possible reason whereby its disallowance could be justified it would be sought and found. Yet, looking at the matter purely from a constitutional standpoint, Sir John Macdonald said on the 20th January, 1872:

"The Provincial Legislature has exclusive power 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.

"The 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 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."

"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 considered 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 held a different opinion, they should set up their judgment against the solemn decision of a province in a matter entirely within the control of that Province."

RETROSPECTIVE LEGISLATION.

In 1859, Hammond was registrar of the County of Bruce. Under 9 Victoria Chapter 34, the Government had the right to dismiss the Registrar upon certain grounds specified. Hammond was dismissed by the Government upon a ground which was not mentioned in the Statute, and was superseded under the great seal of the Province of Ontario, and another man by the name of McLeay was appointed in his place. Hammond brought an action for the fees, contending that the Government had no power to dismiss him. Pending the litigation, and before a final judgment was rendered, the Government passed a Statute which changed the tenure of office from good behavior to tenure during the will of the Lieutenant-Governor of Ontario. Now, this was an *ex post facto* Act, which interfered with the judgment of the Court and affected private rights. It is true that it was passed before Confederation, but then the Imperial Parliament possessed precisely the same rights with regard to the Canadian Legislature, that the Dominion Legislature possesses as to interfering with the Legislatures of the several Provinces.

PROVINCIAL RIGHTS INVADED.

Now it is quite clear that the disallowance of the "Streams Bill," as it is usually called, was a great outrage, not upon Caldwell simply, but the rights of the Provinces to self-government:

1. Because the Bill was admittedly within the competence of the Provincial Legislature.

2. It did not "take one man's property and give it to another" in the sense alleged of confiscating McLaren's property, because it provided compensation based on the value of the improvements made, the cost of maintaining such work and the interest upon the investment.

3. Even if the Bill was an invasion of private rights, it was not competent for the Dominion Government to disallow it on the basis laid down by Sir John Maconald himself and according to the many precedents of the Department of Justice during the last fifteen years.

4. That although it interfered with the decision of a court of competent jurisdiction, yet even that would not bring it within the class of cases stated by Sir John Macdonald in 1868, as those in regard to which the prerogative of disallowance should be exercised. Besides, since the disallowance the court of appeal reversed the judgement of the Court of Chancery, and held that McLean never had any right to the uses of the stream, except such as was given to the whole world. The judgment of the Court of Appeal contains the following statement:

"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 find 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 improvement.

PRECEDENT.

But it is said that during the Liberal Administration a Bill passed by the Legislature of Prince Edward Island, involving the same principle as the Streams Bill, was disallowed, and of course the Liberal party have no right to complain if their own precedent is followed. The Bill referred to is known as "An Act to amend the Land Purchase Act of 1875." It was passed by the Legislature and reserved by the Lieutenant Governor for the assent of the Governor General, and had no resemblance whatever to the Streams Bill. To prove that there is nothing in common between the two Bills, attention is invited to the following particulars:

1. The Prince Edward Island Act affected several of Her Majesty's subjects who were not residents of the Dominion, and in that respect came within clause 7 of the Governor General's instructions from the Imperial Government, which required him to refuse his assent to such a Bill.

2. The rights of the Crown were clearly affected by it. Under 14 Vic., chap. 3 of the Island, the quit rents reserved to the Crown by the original grant were assigned to the Government of the Province. The "Land Purchase Act" directed the Commissioners, authorized by that Act, to consider "the rents reserved in the original grant, and how far payment of the same has been remitted by the Crown."

3. The rights of the parties in Prince Edward Island to certain interests in the lands affected were never questioned. Mr. McLaren never had any rights to the exclusive use of the stream in dispute. He was a trespasser on public property.

4. The rights of the Crown were affected by the Prince Edward Island legislation perhaps injuriously. In the case of the Streams Bill, the rights of the Ontario Government and the public generally were protected from the usurpation of a private citizen.

5. The rights of the parties affected by the Prince Edward Island Bill were not preserved. In the case of the Streams Bill McLaren's rights were carefully guarded, and privileges accorded to him which the courts afterwards decided he had no right to claim, so it is clear that neither by precedent nor by constitutional rule was the Minister of Justice justified in disallowing the Streams Bill.

GERRYMANDERING.

HIVING THE CRITS.

POLITICAL TYRANNY REDUCED TO A SCIENCE—INFAMOUS USE OF POWER.

By the Confederation Act of 1867 the Province of Quebec was allotted 65 members and the Province of Ontario 82. It was provided, however, that Ontario and the Maritime Provinces should receive such additional members as they might be entitled to taking Quebec as the unit of measure. In 1872 Ontario on this principle received six additional members. In bringing down the Bill providing for the increased representation, Sir John Macdonald distinctly laid down the principle that the redistribution of the six seats then at his disposal should be made without interfering with the municipal county lines.

MUNICIPAL BOUNDARIES

This principle, so strongly contended for by Sir John Macdonald in 1872, is utterly ignored in the Redistribution Bill of 1882.

THE BOUNDARIES OF NO LESS THAN TWENTY-FOUR

Municipal Counties are sacrificed in order that safe seats might be provided for his disorganized and cowardly supporters—the principles of 1872 are sacrificed to prop up the declining popularity of his corrupt Government, and by the most flagrant violation of the well accredited policy of his own party, it is sought to snatch a verdict from a people anxious to shake off the bonds in which they are so reluctantly held. The following are the counties whose municipal boundaries are affected:—Carleton, Lanark, Leeds, Peterboro', Victoria, Ontario, York, Lincoln, Simcoe, Haldimand, Wentworth, Halton, Wellington, Gray, Brant, Oxford, Norfolk, Perth, Elgin, Kent, Essex, Lambton, Middlesex and Huron. Shall these counties forget this wrong when the elections take place, or shall they tell Sir

John Macdonald by their votes, that they will not tamely submit to such a gross injustice as this notorious scheme of gerrymandering inflicts upon them.

POLITICAL TURPITUDE OF THE BILL

Why was this Bill brought down so late in the Session? Why was this midnight attack made on the Liberal party of Canada? Why did Sir John reconstruct the political map of Ontario? Why did he load the dice just before going to the country? Evidently because he was conscious of his own shortcomings, of broken pledges, of gross public wrongs, and felt convinced that unless he

PACKED THE JURY

the verdict would be against him. Now what has been done is simply this. To strengthen nearly every Tory member now in Parliament and to weaken the Reform members.

TORY MEMBERS STRENGTHENED

As this nefarious scheme was designed to strengthen the Conservative party it will be interesting to notice the number of members who used their position to avert, if possible the fate which they so much dreaded. The following are a few out of a great many that might be mentioned:—

John Haggart, M.P., South Lanark, with a majority of 324 had Smith's Falls taken off his riding because it gave a Reform majority of 87, making his position, of course, that much stronger.

Darby Bergin, M.P., of Cornwall, with 27 of a majority had the County of Stormont added to his riding with a Conservative majority of 197.

George Jackson, M.P., with a majority of 81 receives an additional strength of 153 votes.

Thomas Farrow, M.P., North Huron, with a majority of 84 is made stronger by detaching two villages from his riding that gave a Reform majority of 41.

Timothy Coughlin, M.P., of North Middlesex, with a majority of 8 is supposed to be made quite safe by removals and additions of townships giving a net Reform majority of 271.

L. McCallum, M.P., of Monck, with a majority of 32 is strengthened by 28 additional votes.

W. Wallace, M.P., of South Norfolk, with a majority of 17 is strengthened by 94 votes.

Mr. Hesson, M.P., with a majority of 83 is further strengthened by the addition of 278 Conservative votes.

Dr. Orton, of Centre Wellington, with a majority of 6, in spite of all his kite-flying, had to look for the substantial addition of 66 votes in order to make it comfortable to face the music.

James Drew, M.P., North Wellington, with a majority of 108 is further secured by 84 votes.

Dr. Strange, of North York, with a majority of 10 has nearly 200 added to his strength.

A. Boultbee, M.P., with a majority of 66 is strengthened by 43 votes.

James Shaw, M.P., of South Bruce, with a majority of 75 is strengthened by 461 votes.

REFORMERS WEAKENED.

It was not enough, however, to make safe retreats for the present Conservative members in the House, whose past record, no doubt, justified them in thus anticipating an indignant public opinion, but Sir John must needs go further and strike down, if possible many of the Reformers now holding seats in Parliament. As instance:

Mr. McDonnell, of North Lanark, is to be swamped by adding two Tory townships from the County of Carleton to his riding.

Mr. Cockburn, of Muskoka, with a Reform majority of 63 is placed in a minority of 93.

Mr. Cameron, of South Huron, with a majority of 165 has this majority swept away.

Mr. Gillies, of North Bruce, with a Reform majority of 156 is placed in a minority of 321.

Mr. Patterson, South Brant, with a majority of 198 is placed in a minority of 43.

Mr. Wheeler, of North Ontario, with a majority of 54 is placed in a minority of 146.

Mr. Glen, with a majority of 206 has 198 of that majority taken off.

Hon. David Mills, of Bothwell, with a majority of 286 is placed in a minority of 249.

Mr. Rymal, of South Wentworth, with a majority of 74 is placed in a minority of 94.

Mr. Bain, of North Wentworth, with a majority of 106 is reduced to 20.

Mr. Guthrie, of South Wellington, with a majority of 303 is reduced to 81.

Mr. Trow, of South Perth, with a majority of 77 is placed in a minority of 118.

Mr. Charlton, of North Norfolk, and Mr. Ross, of West Middlesex have their positions weakened.

DOES THIS BILL EQUALIZE THE POPULATION.

It certainly does not as the following shows: South Leeds with a population of 12,206, represented by Mr. Ralph Jones (Tory) is not touched; Russell with a population of 25,052, represented by the Hon. John O'Connor, is not touched, while two adjoining counties are re-adjusted. The population of a few of the re-adjusted counties is as follows:

North Leeds and Grenville..	12,428
South Ontario.....	20,244
North Ontario.....	24,389
North Essex.....	25,659
East Elgin.....	26,305
East Simcoe.....	27,185
Kent.....	28,712

These are but samples of the extremes in a few of the intermediate counties.

MOWAT'S BILL.

By reference to Mowatt's Bill it will be seen that in no case did he interfere with municipal county lines. Had Sir John Macdonald adhered to the same principle his Bill would be shorn of some of those objectionable features which make it the most nefarious piece of legislation ever passed through the Parliament of a civilized country.

THE SUGAR DUTIES.

There's Millions in it for the Refiners, and the People Pay the Piper.

Who does not use sugar! It is as much an article of food as meats or breadstuffs, and whether prices run high or low our people must have it. But, unlike those other staples of our daily diet, we must go abroad for supplies. The little that is produced from the beet root and the maple tree at home is the merest fraction of the whole. The consumption, too, is steadily growing year by year. In England it has risen from about 30 lbs. per head in 1852 to more than 60 lbs. last year. In Canada during the same period, and exclusive of home-made sugars, it has risen from 12 lbs. to 31 lbs.

A PROPER SOURCE OF REVENUE.

An article of such large and common use is a proper object of taxation for public revenue, and no serious difficulty ought to be experienced in making a just and equable distribution of the burden. To get the greatest possible revenue with the least possible disturbance of price should be the aim of the legislator. In no other way can the interests of the consumer be guarded. But this is just what the Government has not done. The price of sugar has been raised by the Tariff, the people are made to pay a great deal more for it, and there has been a heavy loss to the public revenue. When the Finance Minister unfolded his policy in 1879 members of the Liberal party in the House pointed out that it must inevitably work to this end, and their prediction has been only too well verified by results. The public revenue has been depleted, the whole country has been heavily taxed, and half a dozen men have made colossal fortunes. The only good thing that can be said for the Minister's policy is, that "there's millions in it" for the Redpaths and the Drummonds.

THE LIMIT OF PROTECTION.

If sugar refining in Canada demands protection it is very difficult for Parliament to say what the limit ought to be, for the reason that no one except the sugar refiners themselves knows exactly the quantity of refined or granulated sugar which a certain quantity of raw sugar will produce. This is a secret of the refiners which they have steadily refused to make known. While asking Parliament to make them rich at the expense of the people who consume their goods, they resolutely deny to Parliament the facts and information upon which alone it is possible to calculate the advantages which they are seeking to obtain. "It is a trade secret," was the answer of a leading refiner to the Trade Committee of 1876. "If I were to state to the Committee what results I obtained in my business during a year I would expose myself to the reproaches of refiners in all parts of the world." It is this

FREE-MASONRY OF THE REFINERS

that makes it so difficult to fix the limit of a tariff just to consumers as well as to producers. The same difficulty has been experienced in Europe, and to get a solution of it the British, French and Belgian Governments several years ago rented a refinery at Cologne and conducted refining operations for a period of twelve months. They bought

sugars of all kinds, and the result of their experiments was to establish the fact that 100 lbs. of raw sugar would give 83 lbs. of granulated. This is now the standard in England, where the Cologne calculations are known and recognized by all refiners. In the United States in 1875 a Commission conducted an enquiry with a view to fix the amount of the export bounty. The evidence of experts was taken, and, as a result of the investigation, the Commission reported as their conclusion "that the product of well regulated refineries in hard or stove-dried sugars is 60 per cent., and in soft sugars of inferior quality 28.60 per cent., and in [illegible] up 11.50 per cent., and in waste 4.90 per cent." This, however, was a conclusion reached upon interested evidence that of sugar refiners themselves, and the fact that the export bounty has since been reduced from $3.60 to $3.17 per 100 lbs. clearly indicates that in the opinion of the United States Government the estimated quantity of granulated product was too low.

APPLYING THE AMERICAN ESTIMATE.

But for the purpose of making a test of results under the Canadian sugar tariff, with all odds in the refiners' favor, we will take the data furnished by the American Commission's report as correct. The total waste is only 4.90 per cent. of the whole, and, since the 23.60 per cent. of soft sugars and the 11.50 per cent. of syrup are at least as valuable as the raw sugars from which they are produced, no possible injustice can be done to the refiners by converting the total quantity of raw sugars into granulated on a basis of 12½ per cent. for waste. There is almost conclusive evidence to show that in reality it does not exceed 8½ per cent., but the case is so strong that the opponents of Sir Leonard Tilley's sugar tariff can afford to be generous Let us now see at what cost the industry of sugar refining is being carried on in this country.

FIRST CALCULATION.

For the year ending June 30, 1880, the first complete year under the operation of the new Tariff, there was imported into Canada 116,847,050 lbs. of sugars. This quantity, converted into granulated on the basis of 12½ per cent. for waste, gives 102,241,169 lbs. This at $9.58 per 100 lbs., which was the average cost of refined sugars to Canadian consumers that year, gives a total of $9,794,703. During the same period the average price of refined sugar in New York, less the export bounty, was $6.20 per 100 lbs., or $6,338,952 for the total of Canada's consumption. The difference—$3,445,751—is what the Canadian consumers paid for the privilege of buying their sugars in Montreal and Moncton instead of in New York. And it need not be doubted that at their prices the New York refiners did not carry on business at a loss; sugar refiners don't conduct business in that way, as the Canadian people very well know. But what became of the $3,445,751 paid to the Canadian importers and refiners in excess of the New York price? The Trade and Navigation returns show that $2,026,689 went into the public treasury by way of the Customs. That was proper, and no one complains of it. But what became of the balance—the large sum of $1,429,062? The people paid it, but the public treasury didn't get it. It went to the home refiners, and it helped to swell their profits, *plus* the profits made by the New York refiners on the same quantity of sugar!

SECOND CALCULATION.

In the second year of the sugar refiners' bonanza tariff there was imported into the country 136,406,513 lbs. of sugar. Reducing this to refined or granulated as before, we have as the result 119,355,702 lbs. The average price for the year was $9.77 per 100 lbs., or a total of $11,661,052. The average price in New York, less the export bounty, was $6.55, or a total of $7,817,797. The difference—$3,843,254—is the excess of price to the Canadian consumer. Where did it go? The public treasury received $2,459,142 by way of duty, and the remaining $1,384,112 was—lost! Well, not lost exactly. It went into the pockets of the Montreal and Moncton refiners, to swell their profits over and above the profits made on the same class and

quantity of work by the refiners of New York city. It went, as Mr. Thomas White explained to the House of Commons, to help Mr. Redpath, of Montreal, buy for himself "a quiet, unassuming, modest little place on the other side of the water," and to hob-nob with the nobility and the landed gentry of Old England. A snug sum of $2,813,174 is not bad for two years in the sugar-washing business. But the people who paid it, and who got nothing in return, ought to have something to say about it. Sir Leonard Tilley and his colleagues are alone to blame in the matter. The refiners took what the law allowed them, and no more.

THIRD CALCULATION.

To show in another way the advantages possessed by Canadian refiners over their New York rivals, let us compare average duties and average prices. For the year ending 30th June, 1881, the New York refiner paid upon his raw sugar an average duty of $2.45 per 100 lbs. The Canadian refiner paid an average of only $1.75 per 100 lbs., which gave him an advantage of 70 cents. For the same year he had an advantage of 6 cents per 100 lbs. in the price got for his sugar, or a total of 76 cents. This on the total consumption of the year gives a profit of $1,036,689. For the year 1880 the Canadian refiner had an advantage of 70 cents less duty, and 22 cents extra price, and this on the total consumption of the year is $1,086,677. Add the amount short on revenue as computed on the rates of the Cartwright tariff, and we have a total annual loss to the country of about $1,500,000 or very nearly the same result as by the first and second calculations. But of course the thing that has been the country's loss under this ingenious arrangement of the Tilley tariff has been the refiners' gain.

FIFTH CALCULATION.

It is claimed by the Finance Minister that under the new tariff there has been no loss to the revenue on the sugar duties. In his last Budget speech, and professing to quote from the Trade Returns, he stated that "during the last year we paid into the treasury for duties on sugar $154,910 more than the average for the five years previous." This is a bold statement, and as disingenuous as it is bold. The average imports for those five years, as the Trade Returns show, was 107,456,865 lbs, and the average duty paid was $2,313,286, or $2.15 per 100 lbs. Last year the quantity imported was 136,406,513 lbs., or 28,949,648 lbs. in excess of the five years average, upon which the duty collected was $2,459,142, or an average of only $1.80 per 100 lbs. Under the average tariff of the five years 1874-8, therefore, the duty on the sugar imports of last year would be $477,422 more than the actual amount received, instead of $154,910 less as stated by the Finance Minister. But if instead of taking the average duty for the five years 1874-8 we take the average for the two years 1877-8, the result will be much more striking; it will show a total loss of revenue on the importations of last year of $725,000, or very nearly 30 per cent. of the whole amount collected. This, then, is the actual result to the revenue, after adding 25 per cent. to the taxes.

SIXTH CALCULATION.

It has been shown that the price of sugar has been increased to the consumers, and that the refiners have been enabled to make about $1,400,000 a year more than fair competition in the foreign markets would tolerate. What is there to show for it? The Finance Minister points to the employment of 885 men, and that is all. Their wages are not paid out of any portion of the $1,400,000, unless, indeed, that sugar refining is conducted in Canada at a much greater cost than in other countries in which the cost of labor and raw material is not any less. The New York refiners who sell granulated sugars in the open market at $6.20 per 100 lbs. pay all the costs of production out of that figure, and make a living profit besides. The Canadian refiners can hardly do any less, and on the most liberal calculation of cost they are making a yearly profit of $1,400,000. It is a tax which the Government enables them to impose on the whole country, and in return 885 men are given employment at low rates of

wages—the average being $400 a year. In Great Britain the sugar refiners estimate that one man can turn out 350,000 lbs. per annum, and at this rate 300 men in Great Britain can do the work which in Canada it requires 885 men to do. But assuming that 885 men are given steady employment at $400 a year; that amounts to just $354,000, and they cannot distribute more than that sum for the maintenance of their families. For the sum of $1,400,000 which the country pays to the refiners over and above living profits the Government, or any favorite under it, could support 3,500 families in the country, and could distribute them over all the Provinces of the Dominion, with nothing else to do than spending their $400 year, and eating up the flour, the butter, the corn and the chickens which the farmers would have to sell—and this would be far better than giving it to swell the fortunes of half a dozen men already rich.

SUSTAINING THE MONOPOLY.

The Liberal party in the House of Commons has shown its friendliness to the industries of the country in too many ways to have its attitude on the sugar monopolies misunderstood. It affirms and believes that it is possible to carry on the business of sugar refining in Canada on a basis of justice to consumers and producers, and it was with this object in view that the following resolution was moved by Mr. Paterson, of Brant, seconded by Mr. Gunn, of Kingston :

"That the Speaker do not now leave the chair, but that it be resolved—

"That under the operation of the existing duties on sugar the people have paid, and are liable to pay for that article a price largely in excess of the cost abroad of sugar after adding the Canadian duty and freight to the point of consumption :

"That the duties on sugar are excessive and should be so amended as to reduce the great burden they impose upon the people."

The resolution was lost on a vote of 36 Yeas to 85 Nays, the Nays signifying thereby that they were content that the great burden imposed upon the people should remain unadjusted and undisturbed.

1882.