Legislation pointing in the same direction was passed some thirty-two years ago. In 1849 a law was passed providing that all persons should have the right during the spring, summer, and autumn freshets of floating sawlogs and timber down all streams. The construction placed upon that law was different from what Parliament in the past placed upon it. Surely all streams meant every stream, and all persons every person. But a Court decided that it meant only such streams as in their natural state and during freshets would permit of the floating of logs and timber without the assistance of artificial improvements. That was that if a stream was navigable for fifty miles from its source to a certain point. From that point an individual purchased a lot of land, and if from that point the stream was not navigable without certain improvements, it mattered not what the nature of the improvements were, the Court decided that the individual was the absolute owner in fee. A man, therefore, when he reached this point in the stream, if the party who made the improvements refuses him the use of them, has to get his logs or timber past the best way he could, get into the stream again, and then he could go on. Was it possible that such a proceeding was contemplated by the Parliament which passed the Act? He did not think so. To what streams could that Act have been intended to apply? The Court held that it was such streams as did not require improvements to make them navigable. Of course when a stream was navigable the common law gave the right of navigation, and such legislation would, therefore, have been unnecessary. Hence the Legislature must undoubtedly have intended the Act to apply to the very streams which the Courts have decided it did not apply to. It was impossible to allow the law to be so construed. It was placing one of the largest interests and sources of revenue—that of lumber—at the will and caprice of certain individuals. He did not suppose there was a single stream, down which logs or timber floated, in which it was not necessary to make improvemements in order to render it navigable. Therefore, the holding of such authority by individuals was largely detrimental to the public interests and to the public revenue. It might be said that the legal decision given was many years ago —in 1863, (13 C. P., Boale v. Dickson). It would be observed that that decision was given where the suit was not on account of a party having refused another the right to float logs. It was brought because Dickson refused to pay for logs already floated down. It would have been wrong for Dickson to float logs down and not pay for it, and in order to get over that and prevent the fraud, the Court placed a construction on it that Dickson should be forced to pay and justice be done, not probably seeing the consequences of such a decision. The next case was that of Whelan v. McLachlan, where the cause of action was that the defendant had obstructed the stream by felling timber. Another case was that of Buck v. McLaren, where the point was that Buck broke down the improvements made. These were all the decisions given on the point, and not one of them was on account of an individual refusing to allow another to float logs down a stream through improvements that had been made. The Government now said that it was never intended that such a construction should be placed upon the law, and they said that in the interest of the large trade it affected and in the interest of revenue it was absolutely necessary that the proper construction should be placed upon it. The Bill provided that all parties might float timber down all streams. It went further and said that such had always been the law. It also provided that reasonable tolls should be paid. Suits at present before the courts were protected as far as costs were concerned. The material part of the Bill was to prevent parties being the actual arbiters of streams not allowing others to use them upon payment of tolls. Look at the result of such a license. Parties owning timber relied on improved streams to get their lumber to market. The court of law at present refuses to allow these improvements to be used, no matter how much the lumber dealer was willing to pay. He submitted that such a state of things ought not to continue in this country when they depended so largely on the lumbering interests and the material part of the Bill was to remove that evil. He would note a few of the objections against the Bill. It was retroactive they said. It had to be retroactive in order to be useful, for those persons having improvements might say to a commissioner, "These are my improvements and my property, and you cannot now touch it." This was not the first time that retroactive legislation had been passed. The Free Grant Act passed in 1868, and it was claimed that the timber belonged to the settlers and not to the Crown. A Court decided that the timber did not belong to the Crown, but that the Crown reserved it for the settler. Two years ago that Legislature passed a law saying that the intention was to preserve the timber to the Crown, and that such had always been the law. A law also relating to Registrars was made retroactive some years ago. The Legislature in these cases merely stepped in and placed the law where it was intended to be in the first instance. Then the question was raised of confiscation. The Bill provided that the improvements should only be used upon payment of reasonable tolls, in the fixing of which they had had regard to the cost of improvements, of maintenance, and the interest on the money. This was paying the full amount to which the party was entitled. Therefore the charge of confiscation did not hold good. He denied that these improvements were ever made with the expectation that the parties making them would claim them as private property to the absolute exclusion of everybody else. There was not a single instance of anyone refusing the use of improvements to persons willing to pay reasonable tolls. Therefore parties making the improvements did not expect to have an exclusive use of them. Only one individual had preferred such a claim, and he would refer to him again. When parties made their improvements in that light it was no hardship or wrong to compel them to allow others to use them upon payment of tolls. It was said again that the Government should purchase the improvements in that case. What would that result in? The improvements of Mr. McLaren had been held by him to have cost a quarter of a million of dollars. If they undertook to buy them at that valuation it would take some four or five millions to purchase them all. Would it be right for the Province to undertake such a large expenditure in order that certain individuals might get exorbitant prices for their improvements effected under the circumstances he had described? He did not believe any member of that House would say it would be right. It was also said that that legislation had a good deal to do with the case of McLaren v. Caldwell. It was true that that particular case called the attention of the Government to the necessity of legislation, but the legislation itself was not to meet one case, but to make a general provision applicable to all streams. As this case of McLaren v. Caldwell had been dragged before the House he would refer to it. It was stated that Mr. McLaren had offered to allow Caldwell to float logs down the stream on payment of tolls. In a letter, however, written by McLaren to Caldwell, in answer to one asking McLaren to allow him to float logs and to fix a rate of tolls, McLaren said positively that he declined to allow Caldwell to float logs through his improvements at any price. (Hear, hear.) McLaren said his improvements cost $250,000. At the trial it was offered to prove that the improvements did not cost over $15,000 or $20,000. The Court held that such evidence was not material. Neither did he consider it material, because whatever was the cost of the improvements that Legislature proposed to do absolute justice to those parties by fixing a fair rate of tolls—not alone upon improvements, but for maintenance and interest upon money. It had been said that the Bill might give power to destroy mill dams. Such was not the intention, and a clause would be added preventing anything of the kind. In fact, the law he had referred to provided that any mill dams constructed should be provided with a proper apron for the passage of logs and timber, thus showing that the intention then was that the streams should be free. He had much pleasure in moving the second reading of the Bill. (Loud applause.)

Mr. MEREDITH said the Bill proposed to do away with vested rights, and, therefore, should not receive the support of the House. The public interest demanded that vested rights should not be approached without the utmost care. The Commissioner of Crown Lands had taken two inconsistent positions in dealing with this question. He had first argued that no compensation was necessary, and afterwards had admitted the existence of vested rights, and proposed compensation. He maintained that for many years the Courts had been giving a series of concurrent decisions, recognizing such to be vested rights; and quoted various authorities in support of his proposition. As regarded the question of registration, he held that the decision given in that case was only to meet a particular case, as this Bill was to meet a particular case. He protested against any invasion of vested rights, and defied the Commissioner of Crown Lands to point to any one Act passed that interfered with vested rights, in which the entire value of such rights was not paid for dollar for dollar. He held that this was a similar case to the road being built through a farm, and in such case the full value was paid for the land used. He held that it was a most unheard of thing, while a case in point was pending before the Courts, to press the Bill upon the House. It was only in the case of the most extreme necessity that legislation of this character should be enacted, and the Commissioner of Crown Lands had failed to establish that there was such a case. He maintained that the Legislature had no right to put any man in the position of a toll-gatherer. All that Mr. McLaren asked was compensation for what was taken from him, and he held that less than that would be unjust. He showed that the former owners of the Caldwell limits never tried to float logs down the river in question, and he held that that was another argument against the Bill. This Bill would establish a most dangerous precedent, which would cause serious difficulty in the future.

Mr. MOWAT said that if he had any doubts as to the wisdom of the legislation in question, previous to hearing the hon. member for London, he had none now. His hon. friend had held that Mr. McLaren had a positive right to the use of the stream, to the exclusion of all others. This was not the case, and this was not the only case in which the same claim had been made, and if the precedent was established in the case of Mr. McLaren the same claim would have to be established all over the country. The principle involved in the Bill was perfectly plain—that of equal rights to all having business upon the streams. If the streams were allowed to be controlled by any one company it would seriously diminish the value of the timber limits. The Government did not propose to take away from anybody without adequate compensation. Every interference with private property was to be paid for, but they could not allow one man to totally obstruct a stream merely because he had made certain improvements thereon. The cost of the improvement would be taken into account, and also the interest on the money expended on the improvements, and he held that in doing this the Government were doing ample justice to all. It was the duty of the Government to do ample justice, and that they intended to do, but they did not propose to throw away money, as the hon. member for London would have them do. He held that the Bill should receive the sanction and support not only of his own side of the House, but of all who desired sound legislation.

Mr. MILLER said this was a case of the utmost importance, and should receive the serious attention of the House. He held that in principle all vested and private rights must give way to public necessity. But while he held that the principle of the Bill was right, he did not think that the Bill was right in all its provisions. The view taken by the Attorney-General and by the Commissioner of Crown Lands was that there was no other way of dealing with the subject. He held that there was, and the proper way would be for the Government themselves to improve the streams and collect the tolls. The Attorney-General had said that there were no streams down which logs had not already been floated; but in that the Attorney-General was not well informed. Many of the streams around the Georgian Bay had never had a log run down them. The question would be a larger one in the future than it had been in the past, and the proper way to deal with it was in the way he had recommended. He apprehended that the Government would hear more about the question during the next two years than they had hitherto heard, as difficulties would arise that the pre-