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# A Few Plain Facts for the Electors of Ontario.

For many years Upper Canada was governed by Quebec, aided by a few so-called Upper Canadian representatives. To break loose from this domination by a minority, Representation by Population was called for by the majority. In the Parliament at Quebec a dead-lock had arisen, to escape from which a coalition government was formed, and the scheme of Confederation was the result. In the British North American Act clauses were inserted, intended to give to each Province the unfettered control of its own local interests, by providing local legislatures, each of which was supposed to be supreme within its own jurisdiction, and great care was taken to point out the scope of their powers. Acting strictly within her right and in connection with one of the subjects relegated to her, the Ontario Legislature in the session of 1881 passed an Act entitled "An Act for Protecting the Public Interest in Rivers, Streams and Creeks." That Act was disallowed by the Government at Ottawa, in defiance of Ontario's acknowledged right, and in direct contravention of the line of action that had formerly been laid down by Sir John A. Macdonald. It was seen that this attack upon the rights of Ontario would probably arouse a strong feeling against the Ottawa Government, and it was therefore declared that the Act of Disallowance was in the public interest, thus taking the ground that the men who compose the Government at Ottawa were better judges of the interests of Ontario than the men who had been selected by Ontario to manage her provincial affairs. It could not be expected that such an interference with Provincial independence could pass unchallenged, and therefore in the session of Parliament of this year the matter was brought up for discussion and the action of the Government defended by Sir John A. Macdonald and other speakers on the Ministerial side. In making such defence certain statements were made that are not in accordance with the facts of the case, and as the centralization of power in Ottawa will prove one of the factors in the election contest now coming on, it is considered advisable to place before the electors of Ontario the true state of the case for their guidance. The statements above referred to may be divided thus: (1.) That the said Act was passed by the Ontario Government solely to benefit Messrs. Boyd Caldwell & Son. (2) That the passage of the Act was an attempt to confiscate private property, and ignored private rights. (3.) That the improvements made by Mr. McLaren had cost a fabulous sum, amounting, according to the statements of some, to hundreds of thousands of dollars. (4.) That without the improvements made by Mr. McLaren the stream could not be used. (5.) That the natural outlet for Mr. Caldwell's timber was the Madawaska.

*(1.) That the said Act was passed by the Ontario Government solely to benefit Messrs. Boyd Caldwell & Son.*—If the Act in question had been simply to benefit Messrs. Boyd Caldwell & Son it would have been confined to the stream in dispute, but the attention of the Government having been called to the claim set up by Mr. McLaren, and foreseeing the probability of the claim being repeated by others if Mr. McLaren was successful, they thought it best to pass an Act that should apply generally, and the question at once arises: "If the timber limits worked by each party were originally purchased from the Government, was it not their duty to take steps to prevent one party from using the accident of his position to the injury of the other party? When, then, their attention was called to the fact that McLaren had assumed the ownership of a water highway, and claimed to prohibit others from using the said highway it would have been a gross dereliction of duty if the Government had not interfered, and it is worthy of note that *their right* to interfere has not been called in question, but that the Act it was not in the public interest, McLaren and the public being one and the same in the view of the Dominion Government. If then Mr. McLaren's claim is allowed, it will be absolutely necessary in future to sell no timber limits on a stream requiring any improvement until all the timber has been cleared off the furthest limits. Once allow the claim and you place all the owners of timber limits on similar streams at the mercy of one man.

*(2.) That the passage of the Act was an attempt to confiscate private property, and ignored private rights.*—If the owner of property through which a public road passes thinks proper for his own convenience to improve the road, he would not be justified in denying to others the use of the road because it could not be used without also using his improvements. But it is false to say that any attempt at confiscation was made. Here is what the Act says: "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 sawlogs and different kinds of timber, rafts or crafts, and may from time to time vary the same; and the Lieutenant-Governor in Council, in fixing such tolls shall have to regard and take into consideration the original cost of such construction and 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." A subsequent clause gave a lien on the timber for the tolls. Stress has been laid on the hardship imposed of keeping a man at the improvements to count the pieces going through, entirely ignoring the fact that the true return can always be procured from the Crown Timber Office. Had McLaren followed the usual course pursued by lumbermen on small streams, viz., that of giving and taking in the use of improvements, there would have been no ground for interference. It is also an element in the case that McLaren's dams have some of them been erected for the purpose of allowing square timber to pass through a slide on his own land, while sawlogs could be taken down the stream were his dam removed, and as a fact many thousands have actually been run down this spring, proving that the stream is floatable.

*(3.) That the improvements made by McLaren had cost a fabulous sum, amounting, according to the assertions of some, to hundreds of thousands of dollars.*—Sometime about 1863 the then firm of Gillies & McLaren bought from Gilmour & Co. their limits on the Mississippi for the sum of $20,000, and this sum carried with it the Farms, Real Estate and all improvements on the river, including High Falls, Flat Rapids, Miller's Gap, Ragged Chute, Island Chute, Otter Chute and King's Chute, Cross Lake Reserve Dam, Side Dam at head of Cross Lake, and Farm Slide. Some of those improvements have almost entirely disappeared, notably those at Flat Rapids, and nearly all are in a bad state of repair. The plant, provisions, horses, &c., was a sale outside of the farms, and for these they paid $12,000. The next improvement above the Farm Slide is at McDonald's Chute, for which McLaren paid $1,000, which included 400 acres of land and a mill. McLaren's next so-called improvement is at the head of the Mazinaw Lake, and the land, including a mill, cost him $10,000. The land was 500 acres, and the seller of the land on the trial at Perth valued the land, mill and houses at $9,000, thus leaving the cost of the dam and water power at $1,000. It will thus be seen that the timber limits above referred to, farms, horses, plant, provisions, mills, mill houses and dams cost the sum of $75,000, not one cent of which did the Act touch, but simply allowed others to use the improvements at a reasonable rate of remuneration. It is true McLaren has built a slide on his own land, and, to get sufficient water to pass his square timber through, has built a dam which interferes with other lumbermen bringing down their logs, and what they ask is not the use of McLaren's slide, but the use of the bed of the river, which McLaren denies them, and this the Act gives them, as well as the use of the slide by paying for it, upon the principle that if the water is taken for the slide they must have the use of it. All streams are public property when they are floatable, and that the stream in question is floatable is proved from the fact that Buck & Stewart drove their square timber down the stream, cutting away McLaren's dams when necessary. Two independent valuators (unknown to each other) have gone over the improvements and do not greatly vary, and the improvements from High Falls to the foot of Mazinaw Lake are estimated at less than $12,000!! While for the boasted improvements on Mississippi Creek, and to prevent the use of which by Boyd Caldwell & Son McLaren obtained an injunction on the ground that they were very valuable, he paid the enormous sum of twelve dollars!!!

*(4.) That without the improvements made by McLaren the stream could not be used.*—After this contention will it be believed that McLaren is not the pioneer on this river, but that all the improvements from McDonald's Chute down were built by Gilmour & Co. about 1854, and formed part of the property purchased by Gillies & McLaren, and the exclusive right to the use of the river was never advanced until after McLaren had become possessed of the property, he having previously cut dams in the assertion of his right to use the same stream he now tries to prevent others from using. As has been already shown, Buck & Stewart took their drive of square timber down the whole length of the stream, and this spring, acting under the decision of the Ontario Court of Appeal, Boyd Caldwell & Son have driven several thousand logs down the same stream, and it must not be forgotten that McLaren claims as an improvement the slide on his own land for his square timber, to procure the water for which he has erected a dam that is an obstruction to other lumbermen in their legitimate use of the stream. For their timber limits Boyd Caldwell & Son paid over $65,000, and it cannot for a moment be supposed that these shrewd business men would buy a limit if the stream was not floatable, or being floatable was private property, and they had no way out, and all they ask is the use of the river as it is without McLaren's improvements.

*(5.) That the natural outlet from Caldwell & Son's limits was the Madawaska.*—Supposing a farmer purchased a farm which fronted on two roads, could anyone legally object to his use of one of the roads because the party from whom he purchased always used the other? The objection is an absurd one, and shows how utterly indefensible the action of McLaren is when his defenders are driven to such a plea. The fact is that the timber limits of Messrs. Caldwell & Son have the water-shed within them, and also the rise of the waters, one part going to the Madawaska and the other to the Mississippi, and therefore both streams are natural outlets. That taking timber from these limits to the Madawaska was not very profitable was proved by the former owner. That it is the undoubted right of any and every man to conduct his business in his own way will be admitted, and the fact of Caldwell & Son's mill being at Carleton Place, on the Mississippi, will be to every thinking man a reason sufficient for his use of the stream in question. About 1870 Gillies & McLaren bought through a third party from the estate of the Hon. Jas. Skead another limit on the Mississippi, and from this limit the previous owner sent his timber down the Madawaska, but McLaren now uses the Mississippi.

A perusal of the above facts will show the unfounded contentions of the upholders of the Dominion Government, and satisfy every unprejudiced reader that the Act inquestion was not enacted for the sole benefit of Messrs. Caldwell & Son, but it was disallowed solely in the interest of McLaren. That the Act did not confiscate property, or take away private rights, but made all just and reasonable provision for the payment of tolls where improvements are necessarily used. That the improvements made by McLaren did not cost anything near the amount stated, that $12,000 would cover the outlay, but that whatever the cost of the improvements were was to be taken into consideration by the Lieut.-Governor in Council in fixing the tolls. That the stream was and is still floatable, Messrs. Caldwell & Son at the present time bringing their logs down and floating them over McLaren's dams, to some of which he has not built an apron as required by law, but on some he has, and supposing the contention to be correct, then the fact of these improvements having been made in 1854 and only now put forward as forming a right to monopolize the stream would give the public a right of way down the stream. As to the natural outlet, it is shown that either stream may be taken, but if Caldwell & Son are to be confined to the Madawaska because the Hon. Jas. Skead, who formerly owned the limits, ran some timber down that river, then McLaren should be confined to the use of the same river for the same reason. The action of McLaren cannot be defended, for it is simply an attempt to play a grab game for his own benefit, he having bought the land which he says gives him the stream on the plea of wanting it for mineral lands. It would be just as reasonable for a man who owned a farm on both sides of a road, and who had for his own benefit and comfort improved it, denying the use of it to parties on the other side of him because he had improved it, though in its previous condition it did for them. It must not be overlooked, either, that McLaren, or the original purchaser from the Government, paid a less price for the timber limits than they were worth because of the stream requiring some improvement, and it therefore follows that the first cost of the limits, and the improvements combined, is only the fair price for the timber, and McLaren is actually recouped his outlay in the price obtained for the timber. Let McLaren be successful in this attempt, and others will be found all over Ontario adopting the same discreditable means for the purpose of obtaining the timber of their competitors for less than its worth by preventing their access to a market, and this is just what McLaren has done by all he could frighten away. By a decision given some years ago McLaren conceived he had the law in his favor. In 1880 at Perth V. C. Proudfoot felt compelled by legal etiquette to follow the previous decision. Caldwell & Son appealed to the highest court in Ontario, and that court decided that the previous decision was given under a misapprehension of the law, and they therefore reversed it, giving Messrs. Caldwell & Son the right of the stream. In the meantime, seeing the injustice that was being done, and the consequent injury to trade and commerce, the Ontario Government grappled with the difficulty and enacted a law confirming the right of all parties to the use of rivers, streams and creeks, and also enacting that where private improvements were used by other than the parties who had made them, the owner should receive a fair compensation fixed by the Lieut.-Governor in Council. This is the Act disallowed by the Government at Ottawa, and

## ELECTORS OF ONTARIO,

that Act was disallowed for various reasons, amongst which are the following:

It was disallowed to gratify the personal ambition of two or three Tory M. P.'s who paid for the concession by slavish subserviency to the Government.

It was disallowed in order to put money in the pocket of an already wealthy supporter of the Government, with no doubt the full expectation of a liberal contribution for election purposes, even to the extent of "another ten thousand."

It was disallowed as part of the policy of the present Government of conciliating their followers from Quebec at the expense of Ontario.

It was disallowed as a snub to the Ontario Government because they refuse to bow down and worship the Image at Ottawa.

It was disallowed as a punishment to the men of Ontario for daring to exercise the privilege of freemen by their support of the Mowat Government.

It was disallowed in order to cripple Ontario by thus indirectly depriving her of a large portion of her revenues.

It was disallowed in pursuance of the centralization of power at Ottawa and the destruction of the independence of the Provinces.

At the elections now coming on you will be in a position to deal with every recreant representative from Ontario who by his vote assisted the Government at Ottawa in their assault upon the rights and liberties of this province. Let your election cry be *"The Government of Ontario by Ontario's representatives."* Let your weapon be the ballot, by which you can send back into their native obscurity the men who have aided in binding fetters upon Ontario and placing her at the feet and mercy of an unscrupulous Quebec majority.

MEN OF ONTARIO,

"Now is the time, and now is the hour,
See approach proud Quebec's power;
Quebec, chains and slavery."