

*Canada Grain Act*

of that department, in adopting the bill in its present form because it is desirable that the necessary powers be conferred on the board in similar language to that embodied in the act which I have just mentioned. Therefore if the objection is not pressed I would now suggest to the committee that the clause be adopted as it stands.

Mr. BENNETT: Mr. Chairman, in view of the statement of the minister as to the opinion of the Department of Justice, it appearing that decisions have been rendered upon the meaning of the language of the section in question of the Trade Mark and Design Act, which is similar in terms to that of the proposed section in the Timber Marking Act, I quite agree with the observations that he has made. It is not desirable to use different language if the language has already been interpreted by the courts.

Section agreed to.

Bill reported, read the third time and passed.

## CANADA GRAIN ACT

Hon. JAMES MALCOLM (Minister of Trade and Commerce) moved the second reading of Bill No. 12, to amend the Canada Grain Act.

He said: I would just like to make an observation regarding this bill. The bill is drafted by the Board of Grain Commissioners, with their solicitor, and in accordance with the recommendation of last year's committee on agriculture and colonization. That committee, which made certain amendments to the grain act, suggested that there should be a complete revision of the arrangements of the various sections and that the recommendations of the committee should also be incorporated in that legislation.

That has been accomplished, and it is my intention to refer this bill again to the committee on agriculture and colonization, so that any further amendments that may be considered necessary can be discussed there. I doubt very much if anything would be gained by a discussion of the bill in the house at this time, or until the committee have had a chance to hear the representations of those interested. I therefore intend to move at this time, if the bill be given second reading, that it be referred to the committee on agriculture and colonization.

Motion agreed to, bill read the second time and referred to the select standing committee on agriculture and colonization.

[Mr. Rinfret.]

## NATURAL RESOURCES

## AGREEMENT WITH BRITISH COLUMBIA FOR TRANSFER OF RAILWAY BELT AND PEACE RIVER BLOCK

Hon. CHARLES STEWART (Minister of the Interior) moved that the house go into committee to consider the following proposed resolution:

Resolved, that it is expedient to bring in a measure to confirm the agreement between the governments of the Dominion and the province of British Columbia, dated the 20th day of February, 1930, respecting the transfer of the lands in the railway belt and the Peace River block in the province of British Columbia.

Motion agreed to and the house went into committee, Mr. Johnston in the chair.

Some hon. MEMBERS: Explain.

Mr. STEWART (Edmonton): Mr. Chairman, there is very little difference between the provision of this resolution and those contained in the other two bills which will be considered at a later date. This land in British Columbia was ceded to the federal government for the purpose of constructing a railway eastward from the Pacific coast to connect with what is now the Canadian Pacific railway. An area of land twenty miles wide on each side of that line was ceded by the provincial government for this purpose. In addition, as there had been some considerable alienation of land in that territory, three million acres, known as the Peace River block, was added, and for the land ceded for this purpose the governor in council undertook to pay to the government of British Columbia an annual subsidy of \$100,000.

Briefly, the act provides that the land shall be re-transferred to the province of British Columbia, and the grant of \$100,000 continued. The only difference between this agreement and the agreements with Manitoba and Alberta—and the agreement with Saskatchewan as well, which I hope to introduce in a day or two—is that there are ordnance lands in British Columbia in question, and I believe section 6 of the act deals with those ordnance lands and straightens out some difficulty between the federal and provincial governments as to their administration.

Mr. BENNETT: The questions of park reservations and the mines and minerals in the park reservations are not touched by this resolution?

Mr. STEWART (Edmonton): The provisions with regard to parks are identical in all three agreements.

Mr. BENNETT: This is an agreement between the two governments with respect to the transfer of lands in the railway belt and

the Peace River block in British Columbia. The question of park reservations involves the mines and minerals being retained by the Dominion, and the law prevailing in the parks is to be the law of this parliament and of regulations approved by the governor general in council.

I do not come from British Columbia, but I desire to protest against these provisions. Imagine people living in a vast area the size of Prince Edward Island being governed by regulations made by the governor in council in Ottawa, and then we are told that we are putting the western provinces on an equality with the other provinces of the Dominion. How long does anyone think Ontario or Quebec would tolerate that state of affairs? Yet it is to be thrust upon the western provinces; they are to be told that because the Dominion reserves parks in their provinces, a few officials in a departmental office here in Ottawa are to draw up regulations, to be approved by the governor in council, for the government of these areas, and that the legislatures in the respective provinces are to be subordinated to those regulations in respect to taxes, even, if there is a conflict.

That is what it means. The premier of my province informed the legislature, I believe, that he was forced to take this agreement or get nothing. I am not going to anticipate that discussion, but it is a monstrous thing that in the four western provinces, because the Dominion government reserves areas for parks, the people living within those areas shall not have any local home rule at all; they will be governed by regulations drawn up by a group of officials sitting in Ottawa and approved by the governor in council. If the legislatures of these western provinces pass laws which are in conflict with such regulations, the laws will fall and the regulations prevail. I put it to the minister: Does he think that is fair dealing?

An hon. MEMBER: Sure.

Mr. BENNETT: I was not addressing the would-be-minister; I was asking the minister at the moment. How would the minister feel about it if he were one of the inhabitants? We might as well face the matter very frankly. I regard it as very unfair, and I am very much surprised that the minister would permit the permanent officials of this country to create what Lord Hewart described as the new despotism. He so spoke of it in this country; he published an essay in England, and the Lord Chancellor was so impressed that he appointed a special committee to inquire into the matter. Here we are talking about the new democracy, yet we provide that a group

of permanent officials shall make regulations for the government of the people in these areas.

This is an intolerable condition, and I wish hon. gentlemen would take the trouble to study some of these regulations. We talk about Russia. Why, a lady passing through from New Zealand found a dog tied up in the park in Banff. She was interested in the work of the Society for the Prevention of Cruelty to Animals, and when she complained about it—I see the minister smiling; he remembers the case—the answer was that they had to tie up the dogs because they bit the heels of the elks. That is a fact.

Mr. YOUNG (Weyburn): Perhaps they did.

Mr. BENNETT: Perhaps they did; the hon. member for Weyburn always finds an excuse.

Mr. POWER: Perhaps they aroused the antagonism of the bears.

Mr. BENNETT: These were the elks.

Mr. STEWART (Edmonton): I can assure my hon. friend that it is not contemplated that either the officials or this government shall act in a despotic manner. In connection with the episode to which he referred, the lady from New Zealand was merely obliged to conform to the regulations of the park.

Mr. BENNETT: But it was not her dog; she found it tied up.

Mr. STEWART (Edmonton): Dogs are not allowed to run at large in park areas, and frequently they are not allowed to run at large in municipalities, as my hon. hon. friend knows. If these park areas are to contain wild animals, which are the great attraction in the parks, these precautions must be taken. Otherwise the animals will not be visible to the visitors.

Mr. BENNETT: This was just a bit of a dog you could push aside with your foot.

Mr. STEWART (Edmonton): I might say that my hon. friend brought this matter to my attention some time ago, and he said he supposed the next order would be to tie up the cats. To my astonishment I found that cats were tied up, because they were eating the birds.

However, I might remind the committee that the parks are there for the benefit of all the people, and to preserve the wild life we must have reasonable regulations which will permit those wild animals to remain within the boundaries of the parks. My hon. friend

has taken exception to the fact that we are superseding provincial laws. If that is the case, it is only done to the extent necessary in order to enforce the laws and regulations which have been established for this very purpose. So far as I know there is not and there has not been any conflict in the ordinary municipal government of the areas within the parks.

Mr. BENNETT: Oh, yes.

Mr. STEWART (Edmonton): It would be a God-send if there were no municipalities inside a park area, but it seems impossible to prevent them from growing up. We have in Banff a considerable number of people, perhaps 2,500 in all, and in Jasper park we have a railway divisional point located within the boundaries of the park itself. I think the house will agree that I would be the last individual to use despotism, but we are handicapped by the fact that the provincial laws do not give us the necessary authority to take care of conditions which arise from time to time within the park boundaries.

Mr. MANION: The hon. minister says he has no desire to use despotism, but I remember one occasion very well when he pronounced the death sentence upon protection.

Mr. STEWART (Edmonton): One could scarcely call that despotism; that is an expression of a pious wish for liberty.

Mr. BENNETT: Mr. Chairman, the provisions are the same with respect to all four provinces, and I read from the agreement with Manitoba as follows:

16. The parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks, notwithstanding that portions of any such area may not form part of the park proper, and the laws now in force within such areas shall continue so in force only until changed by the parliament of Canada or under its authority, provided, however, that all laws of the province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said areas or any of them by or under the authority of the parliament of Canada, shall extend to and be enforced within the same, and that all general taxing acts passed by the province shall apply within the same unless expressly excluded from application therein by or under the authority of the parliament of Canada.

The parliament of Canada can supersede the taxing power of the legislature of the province, and I think most people would regard the creation within the province of an area not subject to the legislature of the province as being something wholly wrong. It denies home rule to the people of that part of the province of British Columbia; that is

[Mr. C. A. Stewart.]

what it means. It is no use talking about despotism not being exercised, the fact is that an invitation to despotism usually results in that force being exercised. Permanent officials thrive on despotism. The essay on that subject of the lord chief justice quotes from a number of judgments including the judgment of the court of appeal in England and reference is made to the tendency of officials in that direction.

I should think that the proper way to deal with this matter would be to have the regulations for the administration of the parks which are passed by the governor in council made subject to the approval of the lieutenant governor in council, because the area is part of the province. Perhaps I should not anticipate discussion, but take the Rocky Mountain park and Jasper park in Alberta, and the combined area—I speak subject to correction—is much larger than the area of the province of Nova Scotia. The sum total of the areas of the parks in Alberta is as great as the area of the maritime provinces.

Mr. STEWART (Edmonton): They comprise 1,770 square miles in British Columbia.

Mr. BENNETT: I am speaking of Alberta. The area of the parks in British Columbia is about equal to the area of Prince Edward Island, is it not?

Mr. STEWART (Edmonton): Almost.

Mr. BENNETT: This resolution gives effect to a certain principle and at the proper time and place I intend to ask the house to pass judgment upon the principle involved. This is a negation of the whole theory of confederation. I am not averse to the creation of park areas and I hope the minister realizes that my objection is to the form of government afforded to the people within such areas.

The minister has already mentioned the very considerable railway activity within one of the parks where there is a divisional point with a fair population. The area of the Rocky Mountain park is much greater than the minister intimates. Banff alone must have a population of nearly 2,500 and there are many small settlements scattered through that area. This power of parliament is not limited to the areas which may be in the park proper, but it extends over the whole area from the outer boundaries although within those boundaries there may be sections which have been alienated and which belong to private individuals. In one of the parks there was a townsite which belonged to a private corporation, and there are vast areas in the parks which have been alienated and which belong to private individuals.

Mr. STEWART (Edmonton): I can assure my hon. friend that those areas are quite small.

Mr. BENNETT: The hon. minister will recall that a very substantial area in one of the parks was transferred to Queens university as a gift of the coal which was supposed to be under that area. For the moment I am content to direct attention to this matter in the committee because it is one in connection with which we must register not only a protest but a vote against this allegation of equality which does not place us upon an equality with the other provinces. Equality is denied to the people with respect to their own parks, which equality is granted to the people of the provinces of Quebec and Ontario, as well as the other provinces. I should like to see any parliament undertake to say that the legislatures of Ontario or Quebec should not be able to govern the people within their boundaries.

Mr. STEWART (Edmonton): I quite appreciate the force of the remarks of my hon. friend, but I would like him to realize that the administration of the affairs of the national parks is a big task. At present a minister of the federal government has to endeavour to put into force laws which are only provincial in character. For some considerable time we tried to discover some halfway ground which would be acceptable, but we found that to be a very difficult thing to do. Perhaps the ingenuity of some of my hon. friends will suggest a way out of this difficulty which confronts those of us who are responsible for the administration of the parks. While a park may be within the province of Alberta, all the residents within the boundary of that park must of necessity be under some control by a federal authority, otherwise our task would be a hopeless one. We may have gone too far, but I want to stress the fact that I must have the necessary authority with which to administer those areas which are set aside as national parks. I have no desire to interfere with provincial laws except in so far as they make it difficult to carry on this administration.

Mr. BENNETT: I am grateful to the hon. minister for putting his reply in the terms he has. I offered him a suggestion which, were I in his place, I would accept. I agree with him that the federal parks must be administered as such and that the legislative body responsible for maintenance is the parliament of Canada and not the provincial legislatures. However, the people who live within the geographical area of the parks are subject to the operation of the laws not only of the parliament of Canada but of the legislatures of the

provinces. When you have an area within a province which is subject only to federal legislation, you create a situation whereby powers are exercised entirely at variance with those exercised just beyond an arbitrary line. As the law now is, power is granted to the governor in council to enact regulations, and my suggestion is that such regulations should be subject to the approval of the lieutenant-governor in council so that the provincial authorities would not find themselves in a hopeless position with regard to the administration of a part of their territory.

Mr. STEWART (Edmonton): Would that not put us in the position of being under the control of the lieutenant governor in council?

Mr. BENNETT: The legislative power of the governor in council would not be impaired, but the regulations would be subject to the approval of those who, under the law, have to be responsible for that area.

Take the one matter of the preservation of law and order. The authorities of British Columbia are responsible for the preservation of law and order within the territory called British Columbia. The contention of the crown is that the province and not the Dominion is responsible for the maintenance of the troops to preserve order in Nova Scotia. Conceive the possibility of a somewhat analogous situation arising in any part of the parks in the western provinces. The difficulty would be that the provinces are charged with responsibility without authority, because the federal parliament under these agreements is the supreme law-making authority.

Let me give another illustration: parliament might, if it so desired, licence the sale of intoxicating liquors in that area while the province might be under prohibition. It might, if it so desired, establish certain institutions wholly at variance with the wish of the province in connection with such matters, and without making regulations subject to the approval of the local authorities, you have created a province within a province, a province—it is called a park—controlled by the federal government, although the privy council has said that under the constitution the province may exercise powers as plenary and ample as the imperial parliament in the fullness of its powers could grant and as this parliament within the ambit of its jurisdiction could exercise. I understand the difficulty of endeavouring to legislate along the lines suggested by the minister, but surely the local authorities should have the right to approve the regulations.

Mr. STEWART (Edmonton): May I ask my hon. friend a question? If that were true, the control would be at once transferred to the province, would it not?

Mr. BENNETT: No; the legislative power is there.

Mr. STEWART (Edmonton): I may be stupid about this, but if all the regulations sought to be put into effect by the minister or the department of the federal government within this area were subject, before they could go into effect, to the approval of the lieutenant-governor of the province, then clearly this is provincial control. That is my difficulty. If we can get over that difficulty I am satisfied, but I fail to see how a department of this government would have to go on every occasion and secure the consent of the provincial authorities before they could put regulations into force, without at once admitting that the provincial authorities were absolutely in control of the situation. I am not raising serious objection, but I am pointing out what the result would be.

Mr. BENNETT: I think that could be safeguarded by a very simple reservation, for instance: provided always that no such regulation should impose upon the individual affected greater responsibility than the laws of the province provide and that if such regulations do not conflict with laws applicable to the lives of the citizens of the province, they should be approved as a matter of routine. I do not think there would be any difficulty in inducing the provinces to agree to that, but as the matter now stands, its finality disturbs me. You are going to ask the imperial parliament to ratify an agreement that will affect the lives of people half a century or a century hence, when there may be a very large population in those areas. I agree with the minister's view as to the people within the area. Perhaps it was not originally intended that there should be a large population. Take for instance Jasper park: the Canadian National railway could not operate unless it passed through the park. Of course, it was not Jasper park when the railway first went through there. If my memory serves me aright, there are two other railways, one running down to a coal area in the south and one branching off toward the north.

Mr. STEWART (Edmonton): The new park boundary will cut out the coal area.

Mr. BENNETT: I know, in the south, but is that the case in the north?

[Mr. Bennett.]

Mr. STEWART (Edmonton): There is only one area, the Pochontas, that we know of.

Mr. BENNETT: What I had in mind was the coal line that runs south.

Mr. STEWART (Edmonton): To Edson.

Mr. BENNETT: That is outside of the park.

Mr. STEWART (Edmonton): It is outside.

Mr. BENNETT: Is Edson to be cut out of the park?

Mr. STEWART (Edmonton): There were the Luscar collieries.

Mr. BENNETT: That is the name I was trying to think of. That will be cut out.

Mr. STEWART (Edmonton): Yes.

Mr. BENNETT: We will get rid of that difficulty; but see what will happen: you will have one little section across an arbitrary line subject to the laws of the province of Alberta. Then you are to pass legislation to take these coal mines, the Luscar collieries, out of it. They are no longer subject to federal control, but across an imaginary line the whole community is, within the Jasper terminals.

Mr. STEWART (Edmonton): Yes, in the centre of the park.

Mr. BENNETT: Those are the difficulties I see and it occurs to me we should have some regard to provincial rights. However great the parks are in this country, they cannot be greater than that. I had hoped the minister might be able to devise a scheme whereby he could, without difficulty, ensure that the regulations passed by the federal government for the control of the people in that area, might be approved by the provincial authorities and that there might if necessary be inserted in the agreement a provision that that approval should not be arbitrarily withheld. For instance, in most leases to-day there is a provision that the tenant will not sublet without leave, provided always that such leave will not be unreasonably withheld. Those words have now been given by the courts of the country a well defined judicial meaning. One must think not of to-day but of many years hence in connection with imposing such a condition upon the people of this country. It seems to me intolerable when you preface the agreement by saying that you are not going to place the people in that area on an equality with people in other parts of the country. I cannot imagine parliament endeavouring to do anything like that with respect to Ontario and Quebec, the older provinces.

Mr. STEWART (Edmonton): As regards the administration of the park, we have endeavoured to foresee most of the difficulties that may arise, for example, in the mining, the commercial portions of the park, by the removal of the control of the province. All the laws of the province will apply with the single exception that, of course, we reserve the right, which my hon. friend was complaining about, to override any law that we might think repugnant to the administration of the park.

Mr. BENNETT: And it is against that principle the Minister of Justice has been struggling in London with the British parliament.

Mr. LAPOINTE: We are dealing with our own property; that is the difference.

Mr. STEWART (Edmonton): So far as Alberta is concerned, but not British Columbia.

Mr. BENNETT: That is what we are talking about for the moment.

Mr. STEWART (Edmonton): It will be necessary for the parliament of Canada year by year to spend larger and larger sums of money upon the parks than have been spent in the past. The parks provide for the people of Canada as well as for those of other countries an attraction that brings a great deal of money into the country and the provincial governments must, of necessity, benefit by the influx of those people into the parks.

Mr. BENNETT: What about licence fees?

Mr. STEWART (Edmonton): Some of the licence fees go to the province. They have been going to the provinces in the past.

Mr. BENNETT: The licence fees?

Mr. STEWART (Edmonton): Yes.

Mr. BENNETT: The licence fees at Banff go to the federal department.

Mr. STEWART (Edmonton): Some of them. As regards moving picture licence fees, automobile licence fees, gas tax, all these regulations are and will be in effect within the park boundaries and the province will derive a very substantial income from them. I am not suggesting that all these revenues be taken away from the province and given to the federal government. All I am asking for is sufficient authority to maintain the scenic properties of the park and to administer the park without too great an interference by the provincial authorities. In the main, however, the provincial laws will prevail inside

the park. If my hon. friend were to ask me of any provincial law that is repugnant, I could not at the moment mention one.

Mr. BENNETT: Because that is covered by an arrangement at the moment.

Mr. STEWART (Edmonton): We have got along very amicably and have been carrying along the administration of the park quite successfully without any conflict with the province at all. However, I promise to give this matter some thought and see if we can meet the objection that my hon. friend raises in that particular respect.

Mr. ADSHEAD: Does the sale of liquor within the park come under the control of the provincial or the Dominion government?

Mr. STEWART (Edmonton): It is controlled by the province within the park boundaries.

Mr. BENNETT: It is controlled by the Dominion, but by agreement the province issued a vendor's licence. There is a liquor store at Banff, for instance.

Mr. STEWART (Edmonton): That again has been done by agreement. The provincial government issues the vendor's licence and collects all the revenue from the sale of liquor. There again, there is an agreement under which the provincial authorities will not issue a licence except the federal authorities are satisfied.

Mr. BENNETT: I think it would be fairer to put it the other way, and say that the federal authorities have said that no licence must issue, whereupon the provincial authorities say: We will not issue a licence without your approval. The same situation prevails with respect to police magistrates. The minister recalls the circumstances.

Mr. STEWART (Edmonton): We have had no authority to appoint police magistrates, but we will have now.

Mr. BENNETT: Exactly. Now you are going to cover it this way: The police magistrates will be appointed by the federal authorities, not by the province at all. I think the minister and I have no difference of opinion as to the conditions, because we both know what they are both at Jasper and Banff. The position is that with respect to British Columbia, Alberta, Saskatchewan and Manitoba the government is now taking power to appoint police magistrates in the parks without any reference to the province at all. It is also taking power whereby the laws of this parliament shall prevail in the park areas, and if there is a repugnancy between the federal legislation and provincial

legislation, the federal legislation shall prevail, or the regulations issued under any statute passed by this parliament authorizing such regulations. Moreover, the power virtually of veto is being conferred on the federal authorities—veto to this extent, that if there is a repugnancy between the provincial law and our law, we now declare with the aid of the imperial parliament, that the federal law shall prevail. That is what the effect of this will be in all the parks of this country. As I said a moment ago, the Minister of Justice (Mr. Lapointe) journeyed to London for the purpose of having the Colonial Laws Validity Act repealed, also the power to veto with respect to Canadian legislation that might be exercised by the king in council within any time after two years of the passing of our legislation. I say that we are now setting up just that very condition with respect to this area. So far as the province of British Columbia is concerned, a certain area was granted to the crown in the right of the Dominion by the province of British Columbia for the building of a railway, and when it had been utilized to the full for that purpose, then, on the report of the Hon. Mr. Justice Martin, the remaining area is to be transferred to the province. Putting it on the broad principle of equity, these lands should be transferred just as they were received, without limitation or restriction, if you are going to transfer them back at all; I mean the portions not required. We have set up a national park in British Columbia, and under the terms of this agreement we are imposing a condition whereby the supremacy of this parliament is established forever with respect to that area. I quite agree with the minister that a national park must receive its moneys from the national exchequer and that national regulations must be made by the federal government, but that is altogether different from saying that the people in that area shall be taken out of the jurisdiction of their local legislature and be placed in a position where they are subject to the arbitrary and complete control of this parliament and federal officials. I use the word arbitrary, The minister knows perfectly well that I am not speaking of the individual who at the moment exercises that power in the federal government, but long after he has passed from the scene someone will exercise it. It is the principle as it will affect the future that I am thinking of. That principle is that there shall be established by this parliament an area for a park which is at the moment part of the province, which area, be it small or large, is no longer to be subject to the legislative jurisdiction of the province. That is something, I submit, that we should not lightly do. I took

[Mr. Bennett.]

the matter up with the premier of the province of Alberta, but the difficulty is that that is all that this government will do about it.

Mr. STEWART (Edmonton): I hope that my hon. friend will look at it from our standpoint.

Mr. BENNETT: I am trying to do that. The minister has been perfectly fair in what he says to-day. I appreciate his difficulty, but I submit that the way out of that difficulty is to confer upon the lieutenant-governor in council the power of approval of regulations, in order to see that the regulations impose upon the citizens of the province no greater burden than under the law of the province they are now subject to, in which case approval shall not be withheld by the lieutenant-governor in council. That at least provides for all the citizens in a province being subject to the same kind of law, and it concedes, as the minister will observe, the right of this parliament to regulate its own park, but not to impose its will by regulations, under an act of parliament, upon people so that they have a more difficult life than if they lived like ordinary citizens across an imaginary line in another part of the province.

Mr. GARLAND (Bow River): Would the leader of the opposition propose a similar restriction with respect to the appointment of magistrates?

Mr. BENNETT: I am glad my hon. friend has mentioned that point. It is a different question altogether. It concerns the administration of law and order, and for my part I am wholly opposed to this Dominion having anything to do with the appointment of those who maintain law in one part of the province, while the provincial government appoints them in the rest of the province. I know of no reason why in a small area a magistrate should be appointed by the Dominion government when just beyond an imaginary line the appointment of magistrates is a provincial matter. I cannot understand it. It is a different thing altogether from territorial jurisdiction. It is a question of the maintenance of law and order and of the enforcement of law, and what kind of enforcement do you get when you have a magistrate who is a creature of the federal power? I am making no reference to existing conditions, but as to what may happen.

Mr. STEWART (Edmonton): May I ask my hon. friend a question? What is the difference between the federal authority appointing magistrates and the provincial authority doing it, because the appointee is a creature just as much in either case.

Mr. BENNETT: I hope the minister sees the difficulty. Broadly, under section 92 of the British North America Act, the obligation for the maintenance of law and order in British Columbia rests with the province, and it is the duty of the provincial government to appoint magistrates, and not only magistrates, but lawyers to carry on prosecutions; and to provide jails. When the offender is convicted because of some offence he has committed in the park at Banff, where is he to be sent? Is there a special penal institution provided by the Dominion? No, he goes to Fort Saskatchewan or to some penal institution in British Columbia. Why should the four western provinces find themselves in that position as compared with Ontario and why should the federal power be concerned about the appointment of a magistrate who exercises his jurisdiction in this limited area and not within the province as a whole?

Mr. STEWART (Edmonton): I am not very much concerned about that difficulty; it is of a very minor character.

Mr. BENNETT: But it is the principle involved.

Mr. STEWART (Edmonton): Quite so. But my hon. friend's argument falls to the ground when it is examined carefully in this connection. Of course, it is a reasonable argument if there is no place of detention after the person is convicted. But the appointment to me is not very important, that is not one of the things that causes me any particular difficulty, and I have no objection to the magistrate being appointed by the provincial government. I think that could be easily arranged. But, after all, I fail to see why a magistrate should be any more partial under the federal government than under the provincial.

Mr. BENNETT: No, it is not a question of partiality.

Mr. STEWART (Edmonton): My difficulty is in placing the control of all regulations absolutely under the lieutenant governor in council. It means placing control in the hands of a body which is not interested except in so far as its citizens are interested.

Mr. BENNETT: But the public are interested.

Mr. STEWART (Edmonton): The game regulations, the school laws—

Mr. BENNETT: Those are only covered by agreement at the moment.

Mr. STEWART (Edmonton): But our difficulty is not there at all. The difficulty

is that the regulations of necessity may be different from those in effect in the province, and immediately we have to explain to the provincial government why it is necessary to have those regulations. If you can find some common ground on which we can meet our difficulty will be ended. But I say frankly that I do not want to be put in the position of having to go to the provincial government to sanction regulations that I might wish to put into effect. I desire to make that very clear to my hon. friend. I have had a little experience of that kind. I have been trying to administer the resources of Manitoba, and I find it pretty difficult when I have to satisfy the provincial government in regard to all my actions.

Mr. BENNETT: We can understand that.

Mr. STEWART (Edmonton): I do not want to be placed in that position. I say most emphatically, I would refuse to be put in that position; but I am perfectly willing in a reasonable way to try to conform to the laws of the province in any park area.

Mr. BENNETT: As long ago as the year of confederation, the privy council on an appeal from the province of Quebec declared that federal companies must conform to provincial laws with respect to the registration of titles and matters of that kind, as all lawyers in the country know. That principle has of course been extended in many instances since that time. Now, take a post office in a city like Edmonton or Vancouver. The principle that the hon. minister contends for will enable this federal government, because it owns the building, to disregard the sanitary laws of that city. He says: I will decline to do this because I might be subject to the laws of the province. But the by-laws of the city of Vancouver with respect to sanitation, lighting and all other questions that touch the happiness and health of the people in that area must be complied with. That is an illustration of just what is going to happen in a Dominion park. It is a block of land in a province, and all that is contended for is you should not have the legislature at Victoria, or Edmonton, or Regina, or Winnipeg divested of all its jurisdiction over that block or area because in this instance it is designated a park and not a post office. That is the real position.

Now, let me put this to my hon. friend. My observation, extending over a quarter of a century, of the operation of the regulations in these parks makes it imperative for me, at least, to bring these matters to the attention of the house. This particular matter touches

the future because, as I have said, we are asking the imperial parliament to ratify and confirm agreements with the provinces, and the very point the hon. gentleman has made with respect to the appointment of magistrates some years ago became very acute, as he knows. It need not be discussed here beyond saying that no good case can be made out for depriving the provinces of their constitutional powers as to the appointment of magistrates. Then we go to the next point connected with it, namely, the police force. I wonder if the minister realizes that under the law he now proposes to put through, the provinces are divested of authority for police purposes within those parks, and that the Dominion must be responsible for the maintenance of an adequate police force?

Mr. STEWART (Edmonton): That is what we have done up to now.

Mr. BENNETT: I know that has been done by arrangement. But we are not talking of arrangements any longer; we are talking of a situation that is to be crystallized into a statute and in a sense made permanent so far as parliament can make anything permanent. Then the minister mentions another matter, the game laws. I recall very well the time when the game regulations of the national parks were at variance with the game laws of the Northwest Territories. Perhaps it was before the minister presided over his department, but he knows what I refer to. In the Northwest Territories the game laws were at variance with the regulations of the department with respect to the parks. As the minister knows, in his own time, there has been some conflict between the game laws of the province of Alberta and the regulations in force in the national park.

Mr. STEWART (Edmonton): They can hardly be compared at all because the game laws of the park are absolutely prohibitive.

Mr. BENNETT: That is just what I am trying to point out. They were not always prohibitive. They became prohibitive, as the minister rightly says, because it was desired to make the park a game preserve.

Mr. STEWART (Edmonton): Quite right.

Mr. BENNETT: Just over that imaginary line the laws of the province prevail. I have always conceded to the minister in private conversation and in public statement that it was very important for the national character of the park that the game should be preserved within its area, and the province at once conceded that. As the minister realizes, there are now matters that are subject to

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agreement: 1. Administration of law and order; (a) appointment of magistrates, (b) police power; 2. Education: questions of schools, payment of taxes, and matters of that kind; 3. Administration of the liquor law. Under the liquor law, as the minister perhaps will recall, the Dominion claimed power to maintain absolute prohibition within the parks.

Mr. STEWART (Edmonton): I doubt if we could have sustained it though.

Mr. BENNETT: I did not say for a moment that they succeeded. But when there was a government control, the province was not permitted to set up a liquor vendor's store either at Banff or in any part of the national park, unless the Department of the Interior agreed. Now, there is no difficulty about that, not any in the world, but when you crystallize all this into law that makes it the subject matter of agreement, I put to the minister this: Does he think it is quite right to divest the legislatures of these provinces of all their jurisdiction in the premises, and say that Ontario and Quebec may do thus and so, but in those provinces thus and so may not be done because this parliament and this parliament only has to exercise its legislative power? That is my difficulty.

Mr. STEWART (Edmonton): I would like to direct my hon. friend's attention to two things. He contends that our position with regard to the game law, or with respect to the sale of liquor, could have been threatened in the national parks. Had the provinces undertaken to press their claims, I think we would have had to conform to the liquor law, for instance, and have been subject to any regulation they might have wished to put into effect. My hon. friend is very, very anxious to preserve provincial autonomy within those areas, but I leave it to him, or I would ask him, what kind of a position would we be in, we who have control of this territory and are responsible for it, if we failed to provide for its administration? That is my practical difficulty. May I say that I give place to no one with regard to preserving provincial rights. I am very strongly in favour of them, but I do want my hon. friend to keep some of the very practical difficulties in mind, in connection with administration. Unless we have some control to cover a situation of that kind, then you put the Minister of the Interior, in the administration of the national parks, in a very helpless condition, and if any way out of that difficulty can be found, why, I am perfectly willing to adopt it. But that is my difficulty.

Mr. BENNETT: I am sure the house will accept my apology for talking so much about this matter.

Mr. STEWART (Edmonton): I am very glad. It will give us some time to look into this matter.

Mr. BENNETT: Just let me put this to the minister: His last two observations completely make my case.

Mr. STEWART (Edmonton): Do they?

Mr. BENNETT: Yes. He said: I have no doubt but that had the provinces relied upon their legal rights with respect to liquor and game we could not have done what we have done in the parks, and the same considerations that induced the provinces to view this matter in a national sense will be the considerations that will influence them to do the right thing quite regardless of what may be the attitude of this parliament. They did not have to do it, but they did it, and they did it because they thought it was in the national interest to do it. In the language of one of our learned judges, you can rely upon legislatures to do what they conceive to be right, and we have no right to arrogate to ourselves a virtue which we do not possess and say that the provincial legislatures will not do their duty; but that this parliament is the only body that will do its duty. The situation is not likely to be changed, and I submit that when the minister takes the time to look at this more carefully he will find that there is a principle of far-reaching consequences, very, very far-reaching consequences, involved. It means that within a portion of an area of this Dominion called a province, provincial powers shall not be exercised by its legislature, and the federal power which, under the constitution, has no jurisdiction in the premises, is to exercise supreme control over that area and the people settled therein. That is wrong, the same way that it is wrong in respect to a post office in a city, or any part of it. That is my submission, and if the minister will try to look at it from the angle I have endeavoured to put before him, I think it will remove a great deal of the difficulty that is now being experienced in the minds of a great many men in western Canada with respect to these agreements, because in it is involved the question—not to the same extent—of mines and minerals, and their operation, and certainly the letter written by the minister, that if something had happened at some time we would talk about it, is not of any force or effect in a matter of this kind. The agreement is what governs,

and if there should be a highly mineralized area in the northern part of Alberta, for instance, it means that it would not be developed without probably going to the imperial parliament and having a statute passed.

Mr. STEWART (Edmonton): There is a provision, by agreement.

Mr. BENNETT: That is in the agreement, and that is another point. Since you desire me to mention them all, I will do so. The agreement provides for a method by which there may be a variation of the terms, and the mere ratification of the agreement by the imperial parliament would not in itself be a sufficient warrant for claiming the power by the negotiation of a new agreement to vary it. The ratification of an agreement merely means that it is binding as between the parties, but when you come to constitutional questions, involving the right of this parliament to change the constitution either of Alberta or Saskatchewan by agreement, I think, as the Minister of Justice (Mr. Lapointe) said some years ago, it is reasonably clear that the imperial parliament alone has that authority.

Mr. Chairman, I regret having taken up so much time in discussing the details of this agreement, but what I have said is referable perhaps more to the agreement with the province of Alberta. Inasmuch, however, as they are all affected by the provisions to which I have referred, I perhaps have saved a little time rather than wasted it in talking now.

Mr. STEWART (Edmonton): In reply to my hon. friend (Mr. Bennett) I would just like to say that our difficulty is a very real one. No conflict has arisen so far in the administration of the parks. The province of Alberta, of course, has the largest park area, and we have made provision for taking out of the park areas mineralized lands, or any land that might be useful for commercial purposes. One can readily understand the difficulty that might arise if that area happened to be in the centre of the park. I may say that in order to get rid of the difficulty I have frequently thought of taking out of the park area the municipalities of Jasper and Banff, but that does not seem to be a feasible solution of the difficulty. I do claim, however, that if you put the Department of the Interior, whoever the minister may be, under the control of the provincial authorities, for the administration of the parks, especially when all the money that will be required annually to maintain these parks will be furnished by the federal government, you put

the department and the minister in an impossible position. As I say, we have had no conflict so far. All I ask is that I be put in a position to be in control, not of the people, nor come in conflict with provincial laws, if you will. It might be that we would come in conflict in connection with the administration of the game laws of the parks.

Mr. GARLAND (Bow River): If the health inspector of the province found a condition of affairs, say at Banff, that was wholly unsatisfactory, would he have the necessary jurisdiction under the changed situation, to enforce the laws of the province with respect to health and sanitation?

Mr. STEWART (Edmonton): I will admit at once that if this act were passed the ultimate control would be in the hands of the federal authorities. There is no doubt about that, but it is difficult to enumerate in any act the particular difficulties which might arise. They would only arise in a very few cases, as I said a moment ago. The question of the appointment of police magistrates is not material.

Mr. BENNETT: Years ago, as the minister knows, the question did arise in connection with sewers.

Mr. STEWART (Edmonton): Yes, but I am speaking of my own administration, and with the exception of the liquor and game laws the question never did arise. We have always got along very well with the provincial authorities, but now we are seeking to establish park areas all across Canada, and as I have said on previous occasions there is not much use in advising the federal government to spend huge sums of money on them, and then leave them under the control of the provincial authorities. There must be some place where federal authority shall prevail, and there are times when it becomes necessary that that authority must prevail. I do not mean that in any arbitrary way, but with all due deference to what my hon. friend has said, in my opinion the citizens are just as safe and will be protected just as much under the administration of the federal authorities as they would be under provincial jurisdiction.

Mr. BENNETT: But that is not the point.

Mr. STEWART (Edmonton): I will admit that.

Mr. GARLAND (Bow River): Then there is a question with regard to the operation of restaurants, hotels, places of amusement and so on, for which licences are required under provincial legislation. Is it proposed that the

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federal government alone shall have the power to grant these licences and, if so, will the federal government enforce the laws of the province or of the federal government in respect of these licences? What would be the situation in that regard?

Mr. STEWART (Edmonton): I may say that the two questions I have mentioned were the only two points I had thought of in drawing up this legislation.

Mr. BENNETT: The question of licence fees did arise, as the minister knows.

Mr. STEWART (Edmonton): That question has been settled; I think we get one dollar for each automobile licence and the province gets the balance. The taxation laws of the province are in effect with regard to education and so on.

Mr. GARLAND (Bow River): The minister did not quite get the point. Take the case of a hotel; to-day in the rest of the province a hotel is subject to inspection, and its licence may be withdrawn if it does not carry out the laws of the province or the regulations imposed upon it. If a hotel in the park district does not carry out the laws of the province and is not observing the standard which has been set for that type of hotel; if the provincial inspector is of opinion, from reports he has received, that this is the case, will he have any power to go in there and withdraw the licence of the hotel and close it up?

Mr. LAPOINTE: In that case there is no doubt that the provincial laws apply, unless there is a law enacted by the parliament of Canada which excludes the parks from the operation of the provincial laws, but I am sure that is a law which never would pass this parliament.

Mr. BENNETT: But the regulations are now outstanding with regard to Jasper Park and Banff.

Mr. LAPOINTE: The agreement states:

. . . all laws of the province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said areas or any of them by or under the authority of the parliament of Canada, shall extend to and be enforced within the same, and that all general taxing acts passed by the province shall apply within the same unless expressly excluded from application therein by or under the authority of the parliament of Canada.

With regard to health regulations, to which my hon. friend referred a few moments ago, there is no doubt the provincial regulations

will be enforced unless this parliament should pass a law excluding the parks from the operation of those regulations, and I cannot imagine that being done.

Mr. GARLAND (Bow River): But who is going to enforce those regulations within the park area? There is the question of private rights, the rights of the individual citizen and so on. He has his investment there; for some reason he has become careless and his place is in need of improved sanitation. Who is to make him improve the sanitary conditions?

Mr. LAPOINTE: Unfortunately for the federal treasury, it will be the federal police. I might direct the attention of hon. members to the fact that this country is spending almost \$2,000,000 a year just to maintain these parks in some favoured provinces. I do not think there would be much objection on the part of the people of Canada if the provinces took these parks entirely under their jurisdiction and paid for the upkeep.

Mr. GARLAND (Bow River): I was just going to suggest in passing that if the enforcement of sanitary regulations with regard to the Banff public bath, let us say, is not going to be any better under the new regulations than it was under the administration by the federal government in the past, I do not view the prospects for the future with any particular satisfaction.

Mr. LAPOINTE: I would certainly support my hon. friend in any proposal he might make for the purpose of improving those conditions, but I merely suggest that this government retains control and pays for the maintenance of these parks largely for the benefit of these provinces. So I do not think it is unfair that when the regulations come in conflict, the federal regulations should prevail. However, this is a matter of agreement, and apart from that it is not definitely settled for all time, as was suggested this afternoon. There is a provision in the agreement which permits both the parliament of Canada and the legislature of the province to modify or vary that agreement, or to amend it at any time, by concurrent legislation. Surely we must presume that if some trouble should arise, for which a satisfactory solution is impossible under this agreement, it will be easy to amend it or modify it in a way that will be satisfactory to everyone concerned.

Mr. GEARY: Does not the matter go a little deeper than that? Referring to what the hon. member for Bow River has said, municipal institutions are under the jurisdiction of the province alone. Can the province, by agreement with the Dominion, divest itself

of its exclusive jurisdiction in regard to municipal institutions? If it cannot do so and you enter into an agreement with the province, what validity has that agreement in the case of any infraction of a regulation made by the Dominion? I think its only validity is an approval in advance, a blanket statement by the province that it will forego its exclusive jurisdiction over the territory through its provincial municipal laws. My leader has suggested that the regulations should be approved by the provinces. With all respect I do not think that would quite get us anywhere, because there would have to be regulations made under the provincial municipal law.

Mr. STEWART (Edmonton): I would point out that municipalities have not been set up in the parks. What you might call the municipal government is carried on by a citizens' committee, in conjunction with the superintendent.

Mr. GEARY: That makes it all the worse. I understood from what has been said that municipal corporations have been set up.

Mr. STEWART (Edmonton): The provincial municipal law governs, but the organization has not been set up.

Mr. GEARY: Then if one wanted to lay a sidewalk or build a roadway, how would it be done?

Mr. STEWART (Edmonton): By the federal government. The citizens pay taxes for the purpose of carrying on education, but they pay very little taxes for anything else.

Mr. GEARY: Then suppose there is no municipal institution which could make a law for the tying up of this unfortunate dog?

Mr. STEWART (Edmonton): That would be a park regulation.

Mr. GEARY: You are infringing upon authority.

Mr. STEWART (Edmonton): Not upon the municipal authority.

Mr. BENNETT: There is a provincial act which has the power of municipal regulation.

Mr. GEARY: I do not see where you have advanced it at all by this agreement. I do not think you would be in position to enforce any of the regulations so long as there were municipal regulations being enforced in the locality.

Mr. STEWART (Edmonton): I would like to point out to my hon. friend that there are no municipal organizations. In order to give the citizens an opportunity of having some control over their own affairs, they have a

citizens' committee in the towns of Banff and Jasper. This committee works with the superintendent of the park in the carrying out of what would ordinarily be called municipal activities.

Mr. GEARY: Does not the minister think this matter should be in a little better shape?

Mr. STEWART (Edmonton): I am not convinced that a municipal organization within the park area could be acceptably worked out. If that were attempted we would have to take the whole municipality out of the park and put it under the control of the province, and we have not endeavoured to do that.

Mr. ADSHEAD: It would not be a municipality.

Mr. GARLAND (Bow River): I do not think the hon. leader of the opposition (Mr. Bennett) needs to apologise for having taken up the time of the house in a discussion of this matter. There have been very few matters so particularly interesting to those of us from Alberta, and the points raised by the hon. leader of the opposition have been so convincing that I hope we will have a further consideration of the subject in a committee. Will this bill go to a committee for further discussion?

Mr. STEWART (Edmonton): To the committee of the whole.

Mr. LAPOINTE: This is a resolution prior to the introduction of a bill.

Mr. GARLAND (Bow River): After the second reading it would be introduced to a committee of the house.

Mr. LAPOINTE: In this house.

Mr. GARLAND (Bow River): The questions of the appointment of magistrates, the enforcement of law and order, the granting of licences, the enforcement of regulations, policing, health and sanitation, and other matters should be dealt with so that we will understand what is happening. Until the hon. leader of the opposition raised these points I had no idea that the situation was so involved. I am not quite convinced that the proposal which he makes, that the lieutenant-governor in council of the province should have the power to pass upon the regulations of the federal authorities, is the best way out of the situation. As the minister has suggested, we might be able to get on some common ground but I doubt very much if that end could be achieved in a committee of the whole. I would like to see this bill referred to a smaller committee where we

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might be able to arrive at some intelligent basis for mutual agreement. I can see possibilities of considerable discord. The minister says that the question of payment of the magistrates has not struck him as being of major importance, and possibly he will drop that clause and make some provision whereby the magistrates required within the park areas could be appointed by the provincial authorities. If that were possible then some provision might be made for the administration of the laws of the province.

Mr. LAPOINTE: Would the provinces pay the salaries of such magistrates? Their salaries are included in the estimates.

Mr. GARLAND (Bow River): An arrangement might be made to that effect.

Mr. LAPOINTE: Does not the hon. member think that the power which pays should appoint?

Mr. ADSHEAD: How are the trustees appointed?

Mr. STEWART (Edmonton): Ordinary school districts are set up at Banff and Jasper and the Alberta School Act prevails.

Mr. SPENCER: With the sanction of the department?

Mr. STEWART (Edmonton): The federal jurisdiction has been of a very meagre character. The provincial laws have applied in these areas and unless this bill becomes law we will have to utilize those laws. As I stated before, the only time when conflict threatened, and then it was not very serious, was when we made our parks closed areas so far as game was concerned, and when that was done the provincial laws did not apply within the park areas. The question of the sale of liquor came up when the province went under government control, but that has been settled through agreement. The province is in control of the sale of liquor within the parks but they do not issue licences or set up vendors' stores unless we are in agreement.

There are no municipal organizations in the sense that they have organized municipalities. In order to give the citizens some say in the administration of the community they have what they call a citizens' committee which works in conjunction with the superintendent.

Mr. ADSHEAD: How are they elected?

Mr. STEWART (Edmonton): They are residents of the community, merely acting in the capacity of people who have an interest in the community and who lend their services for that purpose. After all, the superintendent

is virtually in control but he works under the provincial laws in every particular. We are asking that we be given sufficient authority, which authority rightly belongs to us, to enforce such regulations as we deem necessary, and which are beyond the extent of the provincial laws. I do not deny what my hon. friend has stated, that we are taking over control which otherwise would rest wholly within the authority of the province.

Mr. BOYS: Is this not the position: at the present time the province has entire authority and control and if this bill passes that control will pass to the Dominion except in such way as the rights of the province may be expressed by the agreement in question?

Mr. STEWART (Edmonton): We are seeking only to take control where the laws of the province are repugnant to the administration of the park authorities.

Mr. BOYS: The hon. minister has referred to the clause which makes that very feature effective; in other words, that the province continues to have absolute jurisdiction unless there is conflict or unless that jurisdiction is specifically taken away by the terms of the agreement. It is very difficult to understand properly this discussion when we have not before us a copy of the agreement.

Mr. STEWART (Edmonton): My hon. friend will find it in each one of the four agreements.

Mr. BOYS: We have not copies before us.

Mr. STEWART (Edmonton): They have been distributed for some time.

Mr. BOYS: I beg the minister's pardon, that is my mistake. Would the minister give me the number of that particular clause?

Mr. LAPOINTE: It is clause 16 in the British Columbia agreement.

Mr. RYCKMAN: It is clause 15 in the Alberta agreement.

Mr. STEWART (Edmonton): The clauses are similar in the four agreements.

Mr. BOYS: I do not see why it is essential to have a magistrate appointed by the Dominion. The criminal law of Canada is enforced by provincial magistrates and why should there be Dominion magistrates to enforce the provisions of this bill? We might as well have a magistrate here in Ottawa to look after the extensive parks which belong to the Dominion government, as to have a magistrate appointed by the Dominion in connection with these territories.

Mr. STEWART (Edmonton): In discussing this matter the provinces very properly stated that if we desired to have a magistrate within the parks, we should pay for his services, and it was agreed that the province should make the appointment and that we should pay the salary. We pay that salary to the province and they in turn pay it to the magistrate. That is the situation at the present time. I do not look upon that as serious, although we put in this agreement the suggestion that we might have the appointment of the magistrates as we pay them.

Mr. EVANS: I did not hear all the replies of the minister, but I would like to ask for some information regarding a statement by the Minister of Justice that the Dominion government is simply retaining possession of these areas. Is that not in the first place a false assumption of ownership, or how does the Dominion government obtain title to these areas? Do they not really belong to the provinces within whose territory they are?

Mr. LAPOINTE: Fortunately the question raised by my hon. friend will be submitted to the supreme court and even to the privy council, so I think it is better to let them decide that than for him and myself to discuss it to-day because I am quite sure we shall not agree.

Mr. BLACK (Yukon): Have the terms of the agreement with British Columbia been discussed in detail with the government of that province and is that government satisfied?

Mr. STEWART (Edmonton): Yes.

Mr. FRASER: The minister in his general statement on the resolution made some observations in regard to the admiralty lands. I have in my district a situation in regard to these admiralty lands. I should like to know from the minister whether the question of the return of the Chilcotin ordnance lands to British Columbia has been discussed, whether that area has been returned to the province or what arrangements have been made? It is in the centre of the cattle raising area, 100,000 square miles. It is a source of a good deal of trouble at the present time and it is going to be a source of a great deal more trouble in the future. Has the situation been investigated to the satisfaction of the British Columbia government?

Mr. STEWART (Edmonton): I cannot answer my hon. friend in regard to the particular area he mentioned because a number of these areas were under discussion before the agreement was consummated. I will, however,

get him the information before the bill comes up for discussion in committee. The ordnance and admiralty lands and the question of ownership and difficulties about ownership have been under discussion for some years. In some cases the province sold the land, and that is the case in British Columbia. The federal government always maintained that these lands did not legally belong to the province. That matter has been settled by this agreement and there is a schedule of these lands. I shall be glad to get the schedule for my hon. friend.

Mr. BENNETT: The Dead Man's island case was one that went to the privy council.

Mr. STEWART (Edmonton): There are a number of these lands. The worst feature of this case was a question of title in Vancouver. That has been cleared up by the agreement with the British Columbia authorities. Both parties, so far as I know, are entirely satisfied with the arrangement that has been made. I will get my hon. friend a schedule of the admiralty lands. They are not all settled yet as regards definition of area, but the parcels and localities have been settled.

Mr. FRASER: I understand from the minister that when the bill comes up in committee we shall have a detailed statement and be at liberty to discuss the matter with him?

Mr. STEWART (Edmonton): Yes.

Mr. BENNETT: The situation, I think, was that the reservation in the first instance was in favour of the crown when British Columbia was a crown colony. The lands belonged to the crown in right of the empire. When British Columbia entered confederation, their contention was that these lands became the property of the crown in the right of the province, whereas the Dominion contended that, it being responsible for defence, they were under the control of the crown in the right of the Dominion. This clears that matter up.

There is a question to which the Minister of Justice should direct his attention during the next few days: Is it competent for any province, by agreement, to legislate itself out of the provisions of the British North America Act? That is a question which, I think, we must settle. The British North America Act provides that there shall be a legislature for each province. It provides that the legislature of each province may make laws exclusively with respect to sixteen subjects that are mentioned. It provides that

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the Dominion parliament may legislate for the peace, order and good government of Canada, but so as not to limit the generality of the words, it provides that it may exclusively make laws with respect to twenty-nine named subjects. Is it competent for the federal parliament and the legislature of British Columbia to provide that the British North America Act shall have no operation with respect to a portion of the province of British Columbia? That is the problem we have to face. The hon. member for South Toronto referred to it, but I intended to summarize the situation after we had discussed the details. There is the neat problem, stripped of everything, to which the law officers of the crown must direct their attention: Can a province by agreement legislate itself out of the British North America Act? If so, I should like to know on what principle it can be done.

Mr. RYCKMAN: The counterpart of that is found in the first two lines of clause 15 of the Alberta bill which, I understand, is the same clause as is in the other bills. I am not at all influenced by the statement more than once made by the Minister of Justice that the man who pays the piper can call the tune. A number of men put up a factory in a city; they spend the money, but that factory is, of course, subject to the laws of the municipality in which it is situated. This clause reads that by agreement:

The parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries—

And so on. The parliament of Canada cannot by reason of the British North America Act take exclusive jurisdiction in the matters referred to.

Mr. BOYS: There is just one other thought in connection with the very feature we are discussing. It is impossible to ascertain with certainty, when one reads clause 15, whether it is the intention that the province should have any future rights as to legislation or not. I gather from what the minister has said that it is the intention, if laws are passed by the province in future, that they shall have effect unless they are repugnant to Dominion legislation.

Mr. STEWART (Edmonton): Quite right.

Mr. BOYS: I presume the only words which would lead one to that conclusion are those appearing in the eighth line:

That all laws of the province now or hereafter in force—

Does that mean laws which may hereafter be passed by the province?

Mr. STEWART (Edmonton): Yes.

Mr. BOYS: I would direct the minister's attention to the opening line of the clause:

The parliament of Canada shall have exclusive legislative jurisdiction.

It is true that five lines further down there is a reservation:

The laws now in force within the said area shall continue in force.

And of course that would follow.

Mr. STEWART (Edmonton): Or to be put into force.

Mr. BOYS: It does not say that. If the minister is going to contend that it has that meaning, it seems to me it becomes an absurdity. In one place it is said that the Dominion government is to have exclusive jurisdiction and in the next it is said that the provinces may pass laws.

Mr. STEWART (Edmonton): I do not see the conflict.

Mr. BOYS: Why not? If you have exclusive jurisdiction, how can the province pass any law that would have any effect at all? At all events I submit that for the minister's serious consideration, and I would think that the Minister of Justice (Mr. Lapointe) would agree with my contention. If you open the section with the straight unqualified statement that the parliament of Canada is to have exclusive jurisdiction, and then put in a limitation which says that the laws now in force shall continue, surely to goodness no further law passed by the province could have any effect.

Mr. STEWART (Edmonton): I am not a lawyer, but I admit frankly that, as it stands now, we have not that jurisdiction. The section first of all says that the parliament of Canada shall have exclusive jurisdiction in the park, but that is qualified by the statement that the provincial laws now in effect and to be in effect hereafter shall be utilized, if you will, or shall prevail in the park. That again is qualified by the statement, only so long as those laws are not repugnant.

Mr. BOYS: The section does not say that.

Mr. STEWART (Edmonton): Yes, it does.

Mr. GARLAND (Bow River): It also says that the provincial laws shall continue in force until changed by the parliament of Canada.

Mr. STEWART (Edmonton): Quite right. I did not draft this legislation, but it was drafted by a man who I think knows his business fairly well. There is no denying

the fact that we are seeking, and in the opinion of a number of hon. members no doubt wrongfully seeking, to usurp provincial rights. That question might be argued, but I think we are making it abundantly clear that we are going to use the provincial laws in every particular except where they might be repugnant for administrative purposes. If I am wrong, I want to be put right. If we continue as we are at present without some provision for administrative purposes we shall be no better off than we are now. We shall be spending our money and shall have no power to enforce regulations in the park. I do not go to the extent of wanting exclusive jurisdiction. If we could cover what is desired in some other way, all right.

Mr. BOYS: You could put it the other way and say that the province shall have exclusive jurisdiction except in regard to matters which may be legislated upon by the parliament of Canada, in which case the federal laws shall have precedence. Then you would have what you want.

Mr. STEWART (Edmonton): Would not that be doing exactly the same thing? After all, are we not superseding provincial law by federal law? My hon. friend simply seeks to do it in another way.

Mr. BENNETT: In order that the Minister of Justice may have no misunderstanding as to the point I desire to leave for his consideration, may I direct his attention to section 91 of the British North America Act, which reads:

It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding) anything in this act) the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:

Then follow twenty-nine subjects. Section 92 says:

In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say:

1. The amendment from time to time, notwithstanding anything in this act, of the constitution of the province, except as regards the office of lieutenant-governor.

4. The establishment and tenure of provincial offices and the appointment and payment of provincial officers.

6. The establishment, maintenance, and management of public and reformatory prisons in and for the province.

7. The establishment, maintenance and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals.

8. Municipal institutions in the province.

9. Shop, saloon, tavern, auctioneer, and other licences in order to the raising of a revenue for provincial, local, or municipal purposes.

The next subsection deals with local works and undertakings, and then subsection 13 reads:

13. Property and civil rights in the province.

Then follow:

14. The administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

16. Generally all matters of a merely local or private nature in the province.

Now may I ask the minister to turn to section 16 of this agreement and look at the language as well as the punctuation:

The parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks, notwithstanding that portions of any such area may not form part of the park proper,

That is to say, our jurisdiction extends exclusively over the whole area although within that area there are portions that are not part of the park. That, I submit, is in direct conflict with the provisions of section 92 of the British North America Act which I have just read.

Now the question I put to the Minister of Justice is this: Is it competent for the governments of British Columbia, Manitoba, Saskatchewan, and Alberta by agreement with the government of Canada, to repeal the operations of the British North America Act with respect to a portion of the province in question?

Mr. LAPOINTE: I shall be pleased to consider the argument put forward by my hon. friend, and we may have a further discussion on it when the bill comes back. Meanwhile, may I mention the fact that these agreements are to be ratified by concurrent legislation by this parliament and by the provinces, and they must also receive the ratification of the imperial parliament. This may give a new application to the argument of my hon. friend.

Mr. BENNETT: Quite so.

[Mr. Bennett.]

Mr. LAPOINTE: The wording of the imperial statute has not been decided on yet. I quite agree that a province cannot change the British North America Act any more than this parliament can change it. We cannot divest ourselves of the powers entrusted to this parliament by the constitution, and the provinces cannot do it either.

Mr. BENNETT: Nor can the two together.

Mr. LAPOINTE: But as in other matters, as in connection with the federal subsidies to the provinces, if there is an agreement as between the province and the federal parliament to change what but for that agreement would be in force, and that becomes a law of the imperial parliament, and any change has to be ratified by the imperial parliament, I think that might cover the objection of my hon. friend. I shall be pleased to consider the point.

Mr. BENNETT: If the minister does not think I am trespassing too much on his time, he has promised consideration of that point, but there is this further fact that if this is ratified by the imperial parliament then we have a constitution for four provinces that varies in form from the constitution of the others and which can only be affected by subsequent legislation of the imperial parliament, notwithstanding any of the terms of the agreement.

Mr. LAPOINTE: No, because this agreement may always be changed.

Mr. CANNON: If my hon. friend will allow me, that happens even now. If he will refer to the constitution of British Columbia or of Prince Edward Island he will find that in order to meet special cases special provisions were made which are not to be met with in connection with the other provinces. Well, this is a special case; we are meeting it in a special way.

Mr. BENNETT: There is no doubt about the fact that the imperial parliament passed special legislation with respect to Prince Edward Island, providing that that province should never have fewer members in the House of Commons than in the Senate. It also passed special legislation with respect to a subsidy to British Columbia. The Solicitor General will recall that the late Sir Richard MacBride went to London to protest against certain amendments being made that affected his province—monetary consideration in that instance—but this parliament agreed, as the hon. gentleman will recall, to an address that was sent to the imperial parliament, after the privy council had heard the case of Prince