

old item number and rate, but every effort will be made to meet the wishes of hon. gentlemen in that regard.

NATURAL RESOURCES

AGREEMENT WITH ALBERTA

The house resumed from Wednesday, April 30, consideration of the motion of Mr. Stewart (Edmonton) for the second reading of Bill No. 17, respecting the transfer of the natural resources of Alberta.

Hon. CHARLES MARCIL (Bonaventure): Mr. Speaker, I do not intend to delay the second reading of this measure, which has been expected by the western provinces for a long time, has occupied the time of parliament for many years, and has met with general acceptance of the house; but in justice to the men of the Liberal party who were responsible for the act of 1905 I think it is only fair to answer certain statements that were made the day before yesterday and on Monday last by the hon. member for St. Lawrence-St. George (Mr. Cahan). I had the honour in that debate twenty-five years ago of being the deputy speaker and chairman of the committee of the house that passed the bill. I initialled every clause, I reported the bill to the house, and I passed through one of the most exciting debates that the commons of Canada ever had.

The member for St. Lawrence-St. George mentioned three former members of the Liberal party who had voted for restricting the rights of the minority in the new provinces of Alberta and Saskatchewan. He said that a large number of his constituents were favourable to separate schools, and he deplored the very meagre measure of justice now being meted out to the minority in those two provinces. I wish, for a few moments only, to give my experience of the state of affairs that prevailed here in 1905, of which there are but three living witnesses to-day on our side of the house. There is another witness on the other side—but his name is not mentioned—who supported the measure; I mean the member for South Wellington (Mr. Guthrie). The others have disappeared from public life, and many have gone to their reward.

As a boy I remember the debates in this house on the New Brunswick school question away back in 1872 and 1873. I followed closely the debates on the Manitoba school question in 1896 and took part in that campaign. Fully aware of the sentiments of the Canadian people on school matters, when the incorporation of the western provinces came before this house Sir Wilfrid Laurier knew that the sentiment of the Canadian people as

expressed, more especially in 1896, was that educational matters should rest within the purview of the several provinces. It is true that in forming these two new provinces, Alberta and Saskatchewan, we had to deal with the organic law passed in 1875 by the government of Alexander Mackenzie, which established in those territories practically the separate school system that had been established in 1866 in the province of Ontario. But when we came to deal with the question in 1905 the school legislation that had been passed by Alexander Mackenzie in 1875 had been very materially altered by the ordinances of the Northwest Territories in 1891. The separate school system had ceased practically to exist in those territories except in a very small measure indeed.

When the question came before the house Sir Wilfrid Laurier had placed in the bill by his then Minister of Justice, the right hon. Sir Charles Fitzpatrick, the organic clause of 1875 concerning separate schools. This school legislation has prevailed in Ontario, and it has prevailed in Quebec. I must say to the glory of the province of Quebec that we have never had any trouble in that province, and we thought that it was only right that the same system should continue in the Northwest Territories. But in view of the decision rendered in 1896 by the Canadian people that education should remain in the purview of each province, there broke out in the opposition in this house and in their press throughout the country one of the most violent storms that I have ever witnessed in the political life of Canada. Naturally His Holiness the Pope was drawn into the controversy, as was also his representative in Canada at that time, Monsignor Sbarretti, and we were told that Canada was threatened with the direst calamities if this original school legislation, introduced by Alexander Mackenzie and Edward Blake, and adopted by the Canadian people at the time, was perpetuated. The Conservative party were a unit in leaving the school matters in these two provinces to be dealt with by the provinces themselves and the Right Hon. Sir Robert Borden declared on the floor of the house that if he was called on to form a government he would leave matters to be dealt with by the provinces. The Liberal party therefore at that time was in this position: were the rights of the minority, recognized by legislation, to be ignored, to be sacrificed entirely, as had been done in the province of Manitoba after the passing of the Manitoba Act; were we to omit all provisions regarding education and leave the matter entirely to the provinces?

The members in this house who supported separate schools and who recognized that minorities had some rights, no matter in what province and no matter what language they spoke, were in favour of preserving the rights of the minorities in these provinces. I must say to the glory of the Liberals of those days, the Liberals of Saskatchewan and Alberta—not one of whom, I am sorry to say, remains in this house at the present time—that it was due to their patriotic action on that occasion that we were able to save the principle of the rights of the minority in school matters. Sir Wilfrid Laurier was forced by the opposition and by the Conservative press and by a section in his own ranks—by the resignation of Sir Clifford Sifton among others—to withdraw the original clause 16, as it was then called, and substitute another clause, which recognized the principle that the schools came under the laws of the provinces to be formed. The Liberal party at that time from western Canada, the Liberals of Alberta, of Saskatchewan and of Manitoba, came valiantly forward and told us: We are prepared to stand with you and see that the status quo is maintained in the western provinces. That status quo had been modified by the northwest council in 1891. It was not done by Liberals. The lieutenant-governor at that time, a prominent Conservative, signed the ordinances changing the school laws in those territories and even abolishing the French language in certain cases.

We were therefore placed in this position: were the rights of the minority in these two provinces to be ignored completely, was legislation to be passed placing the schools in the hands of a party who declared they would make no provision for such laws; or were we to save the principle, hoping that in time broader views would prevail, that a more patriotic spirit would animate all Canadians, and that another generation would come to realize that after all Canada is a union of two great races, and that it can stand only by preserving unity among its people? We had to decide whether we would recognize the principle or abandon it completely. I must reiterate that it is due to the broad-mindedness of the Liberals of those days, the Liberals of Ontario, and particularly the Liberals of Alberta and Saskatchewan, who were most directly concerned, that this principle of separate schools was recognized and that the second clause 16 was inserted in the two bills constituting the acts of 1905. Naturally the French Conservatives in this house were opposed to this change; the then members for Labelle and Montmagny were the only dissenting Liberals who joined with the

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French-Conservatives to oppose this new clause; and of course it was opposed as well by the opposition. The matter was laid before the highest ecclesiastical authority in western Canada at that time, the distinguished Bishop of Edmonton, Monsignor Legal. That gentleman was asked what he thought of the measure as introduced the second time to this house and as modified by Sir Wilfrid Laurier at the request of a majority of the house. Hon. members will remember, as I remember, that when that message came from Edmonton, Monsignor Legal declared that this measure should be accepted. With that end in view the whole Liberal party, with the exception of the member for Labelle, the member for Montmagny, and a few French Conservatives, voted for the new law of 1905. We did so in the belief that we were doing what we could for the minority.

Conditions have changed in the west. A new population who know nothing of the old days of the union of Canada has grown up. They know nothing of the hardships which the pioneers of Ontario, Quebec and the maritime provinces endured to make Canada what it is. I hope with the present standard of education and the communication facilities we have to-day a broader feeling will prevail and that the unfortunate scenes which were enacted in this house in 1872, 1896 and 1905, of which I am sorry to say few witnesses remain, will never be repeated. I congratulate the Prime Minister (Mr. Mackenzie King), the Minister of the Interior (Mr. Stewart, Edmonton), the Minister of Justice (Mr. Lapointe) and the Solicitor General (Mr. Cannon) on the lucid, clear and fairminded way this measure has been brought to the attention of the house. The measure has been accepted by the opposition and I am sure it will complete and improve the work of confederation until another and better day when Canadians will unite in furthering a better understanding among all classes of the community.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Johnston in the chair.

Section 1 agreed to.

On section 2—Agreement confirmed.

Mr. STEWART (Edmonton): As outlined in my introductory remarks, I have an amendment to move to section 2. The amended section will now read:

The agreement set out in the schedule hereto is hereby approved subject to the proviso that in addition to the rights accruing hereunder to the province of Alberta the said province shall

be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the said province in order that it may enjoy the rights equal to those which may be conferred upon or reserved to the province of Saskatchewan under any agreement upon a like subject matter hereafter approved and confirmed in the same manner as the said agreement.

Mr. BOURASSA: Explain.

Mr. CANNON: In order to understand the meaning of the amendment I would like hon. gentlemen to refer to section 22 of the Alberta agreement. When that agreement was arrived at it was agreed that a royal commission be appointed to—

—inquire and report whether any, and, if any, what consideration, in addition to the sums provided in paragraph 20 hereof should be paid to the province in order that the province may be placed in a position of equality with the other provinces of confederation with respect to the administration and control of its natural resources as from its entrance into confederation in 1905, such commissioners to be empowered to decide what financial or other considerations are relevant to the inquiry, and the report to be submitted to the parliament of Canada and to the legislature of Alberta; and if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the governments of Canada and of the province following the submission of such report, the said governments will respectively introduce the legislation necessary to give effect to such agreement.

When the province of Saskatchewan adopted the agreement with the Dominion of Canada they not only asked for a royal commission to investigate the feature mentioned in section 22 of the Alberta agreement but they went further. Not only did they want a royal commission to investigate whether any additional sums were to be paid in connection with anything which might have been done since 1905, but they wanted this commission to go much farther back and investigate our relations with Saskatchewan from the time that the territory was handed over in 1870. As a result we decided with the people of Saskatchewan that certain questions would have to be referred to the courts. These questions have been submitted by counsel for the province of Saskatchewan; they have been accepted by the Dominion and will be embodied in an order in council for reference to the courts. To sum up the nature or the effect of these questions in regard to further compensation, if the court should decide that the province of Saskatchewan could claim further compensation not only since 1905 but since 1870, the royal commission would investigate these matters. The amendment which is now proposed is designed to give the Alberta royal com-

mission, should the court decide that the Saskatchewan royal commission should investigate from 1870, the same power of investigation, to ensure that the province of Alberta shall be treated in the same way.

Mr. BOURASSA: But I understood there was something more than that; according to the statement of the Minister of the Interior or the Minister of Justice the other day, the purpose of this amendment is to put the government of Alberta in exactly the same position as the government of Saskatchewan.

Mr. CANNON: My hon. friend reminds me that I might add that should the reference which will take place as between the province of Saskatchewan and the Dominion result in the decision with regard to lands, for instance, that the rights of the province of Saskatchewan were much wider and more extended than those which up to now have been recognized and upon which this agreement was based, then we would also treat the province of Alberta in the same way.

Mr. GARDINER: I have a copy of the amendment before me, and I only wish to ask whether this is in similar terms to the amendment adopted by the legislative assembly of Alberta?

Mr. STEWART (Edmonton): Yes, I believe it is identical; we have not been informed of any change, so I assume it passed in this form. I have the telegram from which this amendment was drafted and we have not been informed that any change was made when it was submitted to the provincial legislature.

Mr. BOURASSA: So we find ourselves in an extraordinary position. A few days ago the Minister of Justice, after the argument made by the hon. member for St. Lawrence-St. George, admitted that it would have been preferable to add one further word to section 7 in order to make it quite clear that all four sections of the Dominion Lands Act relating to school lands and school funds would be applicable. When we reach that section I may have something further to say. The only reference I desire to make at the moment is this: The Minister of Justice admitted that it would be better to insert the word "inclusive" in that section in order to make it quite clear that section 40 of the Dominion Lands Act would apply as well as sections 37, 38 and 39, but he said this would reopen the whole matter and that therefore nothing should be changed. Now we are told that probably the legislature of Alberta has adopted an amendment to its own agreement in order to bring it in conformity with the agreement concluded

between this government and the province of Saskatchewan. The government is not even officially informed as to whether the change we are asked to make now has been adopted verbatim by the Alberta legislature.

Mr. STEWART (Edmonton): Oh, yes.

Mr. BOURASSA: I understood the Minister of the Interior to say a moment ago that he had not been informed that any change had been made; but has he the official text of the legislation adopted by the legislature of Alberta, proving that what we are asked to pass now has been adopted in the same words by that legislature?

Mr. STEWART (Edmonton): For the information of my hon. friend I may say that telegrams were exchanged on the matter. Perhaps first, in order to clarify the situation, I should say that there never was any objection to a submission to the courts of any claims the provinces might have. When Premier Brownlee and the representatives of the government of Alberta were here, that matter was discussed at some length, and at that time they did not feel that they were interested. However, after Saskatchewan desired to have the reference extended, I know some criticism was directed against the government because they have not also secured that extension, and telegrams were exchanged between Premier Brownlee and this government. So far as I know, the telegram which was sent granting that extension was accepted by the Alberta government and embodied in their agreement. That is our information. Had there been any change in the suggested amendment surely they would have notified us. It is only a few days since they passed the amendment and it may be that I have a complete text of the bill in my office; I am not sure. However, I believe I can assure my hon. friend that no change whatever was made and that the amendments are identical.

Mr. BOURASSA: Then let us take that for granted; that is one point. It seems to me that the correspondence exchanged between the federal government and the two provincial governments, or at least this correspondence with the Alberta government, should have been published and distributed to the house just as was done with the other correspondence, which was supposed to enlighten us in the matter. I have here a small blue book which does not include the letter sent by the Prime Minister of Canada on December 29, 1928, reopening the negotiations. Reference is made to that letter in the first letter from Mr. Brownlee which appears in

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that correspondence, and surely for the information of the house the letter of the Prime Minister to which the Premier of Alberta refers should have been included.

Mr. MACKENZIE KING: I think I can explain the omission. Last year all the correspondence was tabled up to a certain point, and this year a return was made of the correspondence which had taken place since the last tabling, and that is what was printed. Unfortunately the printing was followed literally; perhaps I should have personally gone over the correspondence in its printed form.

Mr. BOURASSA: Then what has followed since this correspondence ceased on January 4? If I remember correctly the agreement with Saskatchewan was signed on March 20, so that correspondence must have been exchanged between the federal government and the Alberta government between January 4 and March 20 which caused this government to decide to submit an amendment to the agreement with Alberta. As far as I understand the case, Mr. Brownlee and his colleagues were perfectly satisfied to abide by the agreement they signed in December last.

Mr. MACKENZIE KING: Yes.

Mr. BOURASSA: That is clear; very well. What we propose now, then, is not to give satisfaction to the Alberta government, because the Alberta government never asked for it; we propose to add something to the Alberta agreement for which the government of that province did not ask.

Mr. MACKENZIE KING: My hon. friend perhaps misunderstood my affirmative response. When the agreement with Alberta was made, the Alberta government was perfectly satisfied and did not wish any additional feature. Subsequently, when the agreement between Saskatchewan and the Dominion was published, containing an additional clause to which Saskatchewan attached some importance but to the substance of which Alberta theretofore had not attached any importance, the government of Alberta felt that it might be placing itself in a false position and leaving itself open to criticism from certain quarters if it did not have included in its agreement the clause which had been added to the agreement between Saskatchewan and the Dominion government, and the government of Alberta accordingly asked that if possible this be done. It was promised to be done in the manner which is now being proposed.

Mr. BOURASSA: That is not a contradiction of what I was saying. I claimed that the Alberta government concluded an agreement with the federal government whereby both governments were perfectly satisfied with the terms, and later on the Saskatchewan government succeeded in wresting from this government—

Mr. MACKENZIE KING: Not wresting.

Mr. BOURASSA: Perhaps that is not the correct verb. This government in its desire to be very pleasant—

Mr. MACKENZIE KING: To leave no grievance.

Mr. BOURASSA:— to the Saskatchewan government, added to that agreement something which was not and which up to the present time has not been in the Alberta agreement. In other words, in order to make the two agreements complete we are asked now to implement the Alberta agreement by adding to it something which has been asked for by the government of Saskatchewan and which has been granted freely by this government. This forces us to an effort to understand the object of the Saskatchewan government, and to understand the additional clauses which have been added to its agreement, since that is to become the basis of the additional condition to be attached to the Alberta agreement. The amendment, which is very broad, reads as follows:

Subject to the proviso that in addition to the rights accruing hereunder to the province of Alberta the said province shall be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the said province in order that it may enjoy rights equal to those which may be conferred upon or reserved to the province of Saskatchewan under any agreement upon a like subject matter hereafter approved and confirmed in the same manner as the said agreement.

The first addition to the Saskatchewan agreement is that part of the preamble which is contained on page 2 and which recites the contention of Saskatchewan that its rights over the natural resources generally should not be dated from the creation of the province in 1905, but from the acquisition by Canada of the rights theretofore vested in the British government after the abandonment of its privileges by the Hudson's Bay Company. The Dominion government lends itself to the request of the Saskatchewan government to submit the cause first to the supreme court and eventually to the privy council. That provision is contained in clause 23 of the Saskatchewan agreement, and then in clause 24 there is the proviso which was analysed

by the Solicitor General (Mr. Cannon). But the Solicitor General did not refer to clause 27, which reads:

This agreement is signed on behalf of the province with the reservation on its part that neither the execution thereof nor any statute confirming the same shall affect or prejudice any right the province may now have to call into question the legislative competence of the parliament of Canada to enact certain sections of the Saskatchewan Act and the Dominion Lands Act.

The contention put forth by the hon. member for St. Lawrence-St. George (Mr. Cahan), risky as it may be in other respects, is good, I think, in this particular. Once this agreement is ratified, with the amendment now proposed to the Alberta agreement, it will mean that any disposition contained in the Saskatchewan and Alberta acts of 1905 may be challenged by their governments, and that any enactment by this parliament as contained in those acts may be equally challenged in spite of the confirmation by the imperial government. In other words, on the one hand the imperial government says: We confirm this. On the other hand, as was mentioned by the hon. leader of the opposition (Mr. Bennett), the British North America Act of 1871 says, and we agreed to it, that we cannot further amend a constitutional act once it has been agreed to by both a provincial and the Dominion government. It will be now open at any time, in any year of any century, for these provinces to challenge the constitutionality of any section of the Alberta and Saskatchewan acts. I think it would be very unwise for the parliament of Canada practically to invite litigation for all time to come upon the constitutionality of its own laws. Whether these matters relate to lands, to schools or to waterpowers, it is an invitation to litigation.

I think the objection has been met with the retort that this right is an inherent one, that any disposition of law may be challenged at any time by government, corporation or individual. That is quite true, but if that right is illimitable both as to scope and as to time in which it can be exercised, what is the use of including it in this agreement? Are we going to recite in this statute the ten commandments? Are we going to repeat a number of platitudes in order to please this government or that government? Surely the Saskatchewan government have an object in mind. Surely they do not do this for the mere pleasure of having it recognized by the parliament of Canada that they hold the inherent right possessed by any government, corporation or individual to provoke a decision of a tribunal.

Mr. CANNON: Assume for a moment that section 27 was not in the agreement. The Saskatchewan government immediately would be met by the objection that it could not plead to the constitutionality or validity of an act because it had agreed to an agreement which had been ratified and confirmed by the imperial parliament. It would be debarred from urging any ground of unconstitutionality, which is the very essence of their reference.

Mr. LAPOINTE: Section 27 is necessary if they are to have a reference.

Mr. CANNON: There could be no reference otherwise.

Mr. BOURASSA: That is exactly the point I desire to make. It can be inferred from a statement made the other day, I think by the Minister of Justice (Mr. Lapointe), that this addition to the Saskatchewan agreement which is being extended to Alberta meant nothing. I have been told time and time again by persons close to the government—

Mr. CANNON: It does not add to their rights.

Mr. BOURASSA: It was a mild satisfaction given to the Saskatchewan government, but as a matter of fact, even if it had not been inserted, the Saskatchewan government could always challenge the constitutionality of the act of 1905. Now the Solicitor General tells us that if it were not for clause 27 the Saskatchewan government, and if this amendment did not pass, the Alberta government, would be deprived of certain things they derive from this. Then the first argument, that this adds nothing to their rights, falls down. It is either one thing or the other; either it gives something additional or it does not. If it gives something additional, then the government has given way to pressure on the part of the Saskatchewan government and has thus enabled the Alberta government to ask for something which it did not ask for, which it did not care to ask for. Therefore we are asked by an amendment made to a contract entered into in December last to add something new.

Mr. CANNON: I know my hon. friend wants to be very fair.

Mr. BOURASSA: Yes, and more than that, I want to elicit light and information.

Mr. CANNON: What I meant by my previous remarks as to the effect of clause 27 is this: clause 27 has absolutely no bearing upon the rights of any citizen of Saskatchewan to contest the constitutionality or the validity of the act of 1905. Whether the clause is inserted or not, it does not affect those rights

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at all. Clause 27 is only in connection with that part of the agreement which has reference to these questions which are to be submitted to the courts and unless clause 27 were in the agreement, we could not say on the one hand to Saskatchewan: You cannot go before the courts and discuss whether you have the right to take so-and-so before a royal commission, unless you reserve in the agreement that you can contest before the courts during that reference the validity of the acts of 1905 or the Dominion Lands Act. The clause is only in connection with the royal commission which will sit later and the reference which will be taken.

Mr. BOURASSA: Then if clause 27 has no other object than to cover the questions that are to be placed before the supreme court, why not have in the agreement those questions that are so to be placed? Why not have made it a concrete and well defined issue? Why not have agreed with the province of Saskatchewan, and later on with the province of Alberta, to submit to the supreme court point A, point B, point C, and then say in clause 27 that this agreement, even if ratified by the imperial parliament, would not abridge the right of the province of Saskatchewan to have those questions submitted and adjudicated upon?

We are asked to ratify a broad, blanket clause with, I repeat, no limitation as to subject, no limitation as to time. Under clause 27 it is not only the reference mentioned in the previous clause, clause 23; it is any reference, any challenge upon the validity of any section of the Saskatchewan act. I repeat: it is an invitation to any government or to any individual to open litigation at any time. It is an avowal on the part of parliament that it is not prepared, as has been said very eloquently and solemnly during the debate, to close in a broad and generous spirit the issue that has been discussed for the last twenty-five years between Canada and those provinces; but on the contrary, we invite them not to close it. We invite them and anybody to challenge the validity of those constitutional acts. Of course I am not a lawyer, but I remember what my old friend Sir Charles Fitzpatrick, when he was Minister of Justice, told me more than once. Very often when he had a complicated piece of legislation before him, he said: "Bourassa, you are absolutely ignorant of law; will you read this and try to interpret it with common sense. This will help me out." I have formed the habit during the last forty years of reading statutes with what I can command of common sense, with what little knowledge I have of parlia-

mentary tradition and also with my little study of the glorious incertitudes of the law and the variations of jurisprudence. It may be that I am a little too incredulous; but even when lawyers and parliamentarians of high standing give me their assurance, at times I take it with a grain of salt, and I cannot get into my head what is the object—I do not mean the immediate object in the mind of the minister or the immediate object in the mind of Mr. Anderson; I am not looking for any sinister motive, as the leader of the opposition said the other day,—but the legal object, the legal interpretation that can be put upon clause 27. I read it again:

This agreement is signed on behalf of the province with the reservation on its part that neither the execution thereof nor any statute—

In other words, the imperial statute that will confirm this agreement will at the same time confirm this reservation.

—confirming the same shall affect or prejudice any right the province may now have to call into question the legislative competence of the parliament of Canada to enact certain sections of the Saskatchewan Act and the Dominion Lands Act.

Even after they have agreed under this to take certain sections of the Dominion Lands Act to be the basis of right, at least so far as school lands and school funds are concerned. Under this the Saskatchewan government or anybody in Saskatchewan may challenge the constitutionality of the four sections which we were told the other day were the permanent basis of the school fund and school endowment. Under this the government or anybody in those two provinces may challenge the constitutionality of any school law, especially of any school law that may be qualified as being governed by section 17 of the Saskatchewan and Alberta Acts. Why not have left the matter as it stood in common law and practice for all? Why not have left the matter as it stood in the Alberta agreement, thereby not abridging the right of either of those two provincial governments or of any citizen in those two provinces to take the ordinary course of law if it was felt anything was wrong?

For example, let us take the school clause. A decision was rendered by the supreme court some years ago as to the constitutionality of clause 17 of the Alberta and Saskatchewan Acts. As regards that opinion, rather, because it was really not a decision, expressed by the supreme court on the reference by this government, a reference which was not taken up and pleaded in counterpart by the government of Alberta, that same question can be

brought before all the tribunals in the land and reach the privy council at any time any citizen of those provinces may find means, as was done in the Manitoba school case, for example, the Barrett case, to have a private case created so as to bring about an adjudication on the part of the highest court of the land and the empire upon the constitutional value of that enactment. I think even the shining legal lights of the house will admit that in this I am expressing sound views. Therefore, the rights of the provinces were not abridged. I repeat: if they had their rights, why put useless words into the agreement, and, so to speak, invite litigation in the future? Why say, because from a certain point of view this is what it means, that parliament in this year, 1930, does not take the firm attitude that it believes in what it did twenty-five years ago?

Reference was made at a previous stage to the few members who remain in the house who were here in 1905 after the government had abandoned its previous position with regard to minority rights. After we had put up that fight in favour of the policy prepared by the government themselves, in order to enable the government, if possible, to stand by their own policy, we stood loyally by the decision of parliament. When three or four years ago I made allusion to the word of honour given by this parliament with regard to minority rights, I never meant that this parliament should go beyond 1905 and give rebirth to rights that had then been sacrificed, and I think uselessly sacrificed, by this parliament. But here we are doing more than that. We are practically inviting a contestation of what we did in 1905, and we are doing it at the request of a government which under its own provincial laws at the present time is doing everything it can to apply the law of 1905 in exactly the manner in which twenty-five years ago I predicted it would operate, and which all the legal lights from Sir Charles Fitzpatrick down, as well as Sir Wilfrid Laurier, said was absurd, that it would never operate in that way at all.

The hon. member for Bonaventure, with the best intentions, invited the testimony of Bishop Legal of Edmonton, and said that the bishop was given to understand that the law as passed in 1905, preserved all the Catholic public schools then in existence. But the legal basis of those schools was absolutely suppressed by the ordinances of 1892, 1896 and 1901, the first of which Sir John Thompson characterized as *ultra vires*. What we did in 1905 was to legalize the ordinances that had been declared *ultra vires* by the Minister

of Justice of Canada, and to deceive the minority there by telling them that we were preserving what they had, whereas actually we were breaking the law; and what Premier Anderson is doing to-day is precisely to put into operation the law passed by this parliament in 1905. It is just as well to admit the facts as they are. Premier Anderson is, in a narrow minded and wrongful way—I think that like Premier Ferguson he will later see that he is wrong, and like Premier Ferguson I hope that he will be able to take a broader view of his own policy before very long—putting into operation, in a narrow-minded way, I repeat, the law that we passed here, and which has been described this afternoon as having been passed with the approval of the Bishop of Edmonton. If the Bishop of Edmonton were living to-day, I am sure that he would not say that what is now happening in Saskatchewan is what had been promised to him by the representatives of the government of Canada in 1905. I can assure the house that I know more about that feature of the situation than anybody here, including the hon. member for Bonaventure. I mention that simply to show that it is well to calculate the consequences of things done.

May I say, in passing, that I am happy to congratulate Mr. Brownlee upon the broad and statesmanlike spirit that he has shown in negotiating this agreement with this government after the crisis of 1926. I admit that in 1926 he let himself be carried away by a similar current to what is now flowing in Saskatchewan; but he had the patience and the courage to react against it. When the Prime Minister of Canada wrote to the Premier of Saskatchewan that this government was prepared to grant to the government of Saskatchewan terms exactly similar to those granted to Alberta, I think that that was the right thing to do. Why did not the government abide by their word? I observe that in the letter written by the Prime Minister of Canada to Premier Anderson on December 31, 1929, the Prime Minister compares the position of Saskatchewan with that of Alberta and says:

Our government stands ready immediately to make a similar agreement with the province of Saskatchewan.

That is, along the same lines as that recently made with the province of Alberta. Then, replying to Premier Anderson's suggestion that certain questions should be placed before the courts for adjudication, the Prime Minister adds:

Our government is quite ready to cooperate in obtaining a decision upon them by referring

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appropriate questions to the Supreme Court of Canada, whose decision would, according to the usual practice, be subject to appeal to the judicial committee of the privy council. In case such a reference were made, the matter of an agreement with the province would, of course, have to stand in abeyance pending the final disposition of the questions submitted.

That was the appropriate attitude to take. The Prime Minister of Canada, quite properly, expressed his willingness to meet the wishes of the government of Saskatchewan. Then, he said: You have a certain contention to put before the courts. Very well, we will put it before the courts, but before concluding the agreement and asking parliament to ratify it, we will have the legal questions settled first. Why did he abandon that prudent and statesmanlike attitude? In the interests of both the people of the west and the people of Canada at large, the less margin we leave to litigation and to political agitation in agreements of this kind, the better it is for all concerned; and surely it was not without some maturity of thought that the Prime Minister of Canada wrote under date of December 31, 1929, that the agreement would have to remain in abeyance until the legal questions were settled. That was a very proper position to take. It was similar to the position taken by Premier Brownlee himself in 1926 when he refused to accept the amendment proposed in this house until the supreme court had passed judgment upon it. It seems to me that this government should have stuck to that point, and if it had, the Alberta agreement would have gone through as it was signed. There would have been no dispute as between the government of Canada and the government of Alberta, and it would have strengthened the hands of this government later on in dealing with Saskatchewan; for I have confidence enough in the good people of Saskatchewan to believe that the wave of prejudice which is now passing through that province will subside; and then this agreement could have been concluded in a more serene atmosphere,—the legal questions having been settled—rather than putting it down in black and white that we, the people of Canada, enter into a solemn agreement with two of the great provinces of the west, but state in the agreement that some of its basic points are open to litigation and that we invite litigation upon them, and are in every way prepared to cooperate with our co-contractor in order to carry that litigation to the privy council. I think that that was a very weak position to take, and as far as I am concerned, I regret very much that it was taken.

I think the least that should be done before this bill comes up for third reading would be to have brought before the house, and let it be known to the country, what are the questions to be submitted to the supreme court, and eventually to the Judicial Committee of the Privy Council. Here we are, the solemn and highest court of the land, a parliament equal in status to the mother of parliaments in England; and we are asked to ratify an agreement under which we invite litigation with two provincial governments, and with respect to which it is admitted now that the questions to be submitted have been framed. Those questions are known by this government and by the governments of Saskatchewan and Alberta, but by nobody else in Canada, including the people of Saskatchewan and Alberta. I appeal to my friends on the other side representing those two provinces,—are they prepared any more than I am to vote blindly for having a reference made to the supreme court without knowing what questions their own governments have decided to submit? I do not suppose it is the intention of Mr. Anderson or Mr. Brownlee to set up a Fascist government in those provinces. I understand the spirit of democracy is strong and wide open in the western provinces. And for my part, though I am not much of a believer in democracy, I do not believe in secret government; and especially I do not believe in being asked to approve of submitting to the supreme court and to the Judicial Committee of the Privy Council questions on important constitutional issues, the scope and object of which I do not know, when at the same time I am informed that those questions are already framed but are kept in the secret closets of Ottawa, Regina and Edmonton. Therefore for the good of all I make a very urgent request to the government to bring down to the house before we reach the third reading of these bills the questions that are to be submitted to the courts, so that we will be in a position to know what we are legislating upon.

Mr. MACKENZIE KING: I might answer my hon. friend as to the reasons why the government did decide not to await the answers by the courts before transferring the resources? It was perfectly apparent to the government that the agreements with Manitoba and Alberta would pass, which would mean that so far as the Department of the Interior was concerned that department would more or less pass out of existence.

Mr. BENNETT: *Functus officio.*

Mr. MACKENZIE KING: Yes, it would practically pass out of existence, two thirds of it at any rate, and we would be keeping on a department of the government simply for the purpose of awaiting the answer by the courts. That was one reason. Another reason was this: The whole purpose the government has had in view in these matters has been to rid the provinces of any possible sources of grievance. I do not believe we could have afforded the government of Saskatchewan more in the way of an apparent grievance than to have told its members that we would not let the province have its resources, that we would hold on to them, like a dog in the manger, until replies had been made by the courts in a matter which we had no doubt in the world would be decided along lines which I believe my hon. friend will agree are the only possible lines.

Mr. BOURASSA: That was an afterthought; it came to the Prime Minister after he wrote the contrary on the 31st of December.

Mr. MACKENZIE KING: Yes, it was an afterthought, or a decision after further thought.

At six o'clock the committee took recess.

After Recess

The committee resumed at eight o'clock.

On the schedule—paragraphs 1 to 5.

Mr. GARDINER: I wish to ask the minister the intention in regard to part of paragraph 2 of the agreement.

—and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the province or to interests therein, irrespective of who may be the parties thereto.

I would like to have an explanation.

Mr. STEWART (Edmonton): It means that all contracts will be carried out in their entirety. The province agrees to carry out all existing contracts and all the provisions of the contracts except as for example in the case of a mining lease. The hon. member will recall the question raised the other day by the leader of the opposition (Mr. Bennett). In the case of a mining lease the royalty might be increased generally over the whole province.

As far as grazing leases are concerned, they are in another category. They are for a definite number of years at a fixed rental, and this clause does not apply. This paragraph means that unless the lessee and the government agree by mutual agreement to change the contract or there is a general provision increasing or decreasing the royalty they must agree to carry out all the provisions of the contract.

Mr. CAMPBELL: Would the minister tell us if there are any contracts for the granting of lands to the Canadian Pacific Railway Company for railway purposes, and if so whether that would be covered by this clause?

Mr. STEWART (Edmonton): The Prime Minister undertakes to carry out any obligation that is assumed by the federal government in connection with these resources at the time they are turned over; the provisions of the contract will be carried out with the exception of cases where general legislation would prevail.

Mr. EVANS: I would like to ask a question regarding the last paragraph of the preamble. I did not realize that it had been dealt with. The section to which I refer states that section 21 of the Saskatchewan act shall be modified. Does that mean that that section of the act will be repealed?

Mr. STEWART (Edmonton): We are dealing with Alberta now. Which section does my hon. friend refer to?

Mr. EVANS: The last clause in the preamble of the agreement contained at page 2. It says that whereas it has been agreed between Canada and the province that section 21—

Mr. STEVENS: You are looking at the wrong bill.

Mr. STEWART (Edmonton): I cannot give my hon. friend a concrete example of any way in which the agreement might interfere with the existing Alberta act.

Mr. MACKENZIE KING: The concrete example is the text of the agreement.

Mr. STEWART (Edmonton): I do not know that the agreement does in any sense interfere with the act of 1905. Under the act of 1905 the natural resources remained in the control of the federal government; under this agreement they are to be transferred to the province and the act is changed to that extent.

Mr. GARDINER: Coming back to the question we discussed a moment ago, would

[Mr. C. A. Stewart.]

the minister explain what position an oil lease would be in when these natural resources are transferred to the province? Would it be possible for the provincial legislature to amend the contracts in so far as oil leases are concerned, or are they only temporary or for a specified time?

Mr. STEWART (Edmonton): Mining leases and oil leases are in the same category; they are subject to fluctuations in royalties. Otherwise all the provisions of the contract would have to be carried out. That is, the terms of the contract, whatever the agreement was, will have to be carried out. If the province made a general regulation increasing the royalties on oil, it would apply to these leases but they have no more authority than we possess at the moment because we do not guarantee to keep the royalties at a fixed amount under the terms of the lease. The only exception to that is that grazing leases are for a specified term of years and on a rental basis.

Mr. GARDINER: So that practically all leases would come under the jurisdiction of the legislature except certain specified leases, which would be very few?

Mr. STEWART (Edmonton): Quite right.

Mr. GEARY: I wonder if the Solicitor General would give me some information. This agreement with Alberta, and the other agreements relating to natural resources, treats the natural resources as lands, mines, minerals and royalties derived therefrom. Why is it restricted in that way? If I remember rightly the language of section 109 of the British North America Act is "lands, mines, minerals and royalties," not royalties incidental to lands and mines but all royalties, which include a great many rights of the crown such as escheat and bona vacantia. These are held by the crown in the right of the Dominion, and if the province is getting all its natural resources as described in section 109 of the British North America Act it should get these royalties as well.

Mr. CANNON: There is a difference in language between section 109 of the British North America Act and the provision in the agreement, but I suppose the reason for the difference in the phraseology would be that section 109 simply said that all public lands remained within the control of the provinces, and there was no reason to add anything in connection with royalties. However, in the west the Dominion government has been drawing royalties, so that is probably the reason why this phraseology has been adopted. As a matter of fact there is another clause in the agreement, the number of which I have

forgotten for the moment, which provides that moneys which are derived from these sources and paid to the Dominion during the period when the agreement is not in force are kept by the Dominion, and if the royalties are paid afterwards, even if there are arrears, they are paid to the province.

Mr. GEARY: Perhaps I have not made myself clear. At page 2 of the bill you find section 1 of the agreement, which reads:

In order that the province may be in the same position as the original provinces of confederation are in virtue of section one hundred and nine of the British North America Act. . .

That is what you are designing—that is, to put this province of Alberta under the provisions of section 109 of the British North America Act. My point is that section 109 is in these words:

. . . lands, mines, minerals and royalties . . .

Royalties in that section are not solely royalties incidental to lands, mines and minerals but include also all other sorts of royalties, for instance, escheat, which became of some importance once at least in the province of Ontario. This agreement does not transfer those rights to the province of Alberta as part of natural resources. Is it intended that they should get these resources as well? If so, they are not covered and you are leaving out something which by section 109 of the British North America Act is reserved to the other provinces. For instance, to my knowledge there have been two cases of some importance in British Columbia, wherein the province was able to attach to itself certain moneys. I think one case was connected with precious minerals and the other was a case of bona vacantia. There was no owner for certain things, and the crown took them. In the province of Ontario there was the Mercer case, where the property of the family reverted to the crown in the right of the province. Now, if you are following section 109 and intending to give to Alberta what that section reserves to the other provinces, I do not believe you are doing it under this provision.

Mr. BENNETT: The converse of that is equally true. The privy council decided recently under an escheat case that it went to the crown in right of the Dominion and not in right of the province, because of the peculiar conditions under which we hold title to our lands.

Mr. CANNON: As I stated yesterday, naturally there will be many of these incidental questions which will arise, and these

questions will have to be settled between the Dominion and the provincial governments. I had quite a lot to do in the conferences which resulted in these agreements, and I believe that many unforeseen difficulties were suggested. My hon. friend now raises a point, and I have no doubt that these agreements will have to be supplemented later by further agreements or departmental arrangements.

Mr. EVANS: Does the Solicitor General think these words simply mean the royalties from the mines and minerals only or do they imply all royalties within the province, derived from every source within the province?

Mr. CANNON: The word "royalty" does not seem to be restricted. My hon. friend asks whether the word "royalty" applies only to mines and minerals or whether it applies to royalties from any source whatever.

Mr. STEVENS: It is restricted by the words "lands, mines, minerals and royalties derived therefrom."

Mr. CANNON: Yes, it would be royalties derived from lands, mines or minerals, precious and base, in the province.

Mr. EVANS: But there may be other royalties arising in the province in addition to those from lands, mines and minerals.

Mr. STEWART (Edmonton): May I point out to my hon. friend that the province already controls, under the autonomy act, practically everything but these natural resources which are specified, and I confess I do not get the point raised by my hon. friend. In the first place this agreement sets out that the interest of the crown in the lands, whatever it may be, of whatever sort or character, is transferred to the province. That includes the interest in the mines and minerals, and it would appear to me that the word "land" covers nearly everything that could come up.

Mr. GEARY: It does not; that is the point.

Mr. STEWART (Edmonton): Surely a question of escheat involves land or property.

Mr. GEARY: No, that is not always the case.

Mr. STEWART (Edmonton): Of course I am not competent to argue that point, but there is an understanding between the federal and provincial governments that the province of Alberta is to be put in the same position as the other provinces of Canada with respect to its natural resources.

Mr. GEARY: Perhaps the minister would just look at it in this way: "royalties" is a broad word; it may mean the royalty from a mine or it may mean what my lawyer friends on the other side will call *jura regalia*, which are those ancient rights belonging to the crown, such as escheat. Surely that is a more comprehensive word than royalties derived from land. You are giving the province the royalties derived from lands and mines, but not royalties in the broad, large sense.

Mr. STEWART (Edmonton): I am sorry I did not catch the first statement of my hon. friend. In what else than natural resources are we interested?

Mr. GEARY: I could mention a number of things. Royalties may produce moneys which belong to the crown and may not be connected with land. Gold, as distinct from coal and iron, is a royalty belonging to the crown and which does not go with the land. If my hon. friend wants a list, he can have it. They are such as fines, royal swans, flotsam and jetsam, escheats, and many others; there are a number of royalties which belong to the crown.

Mr. BENNETT: All prerogatives of the crown.

Mr. ELLIOTT: They are given in the act.

Mr. CANNON: Section 3 of the act of 1905 reads as follows:

The provisions of the British North America acts, 1867 to 1886, shall apply to the province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Alberta had been one of the provinces originally united, except in so far as varied by this act and except such provisions as are in terms made, or by reasonable intendment, may be held to be specially applicable to or only to affect one or more and not the whole of the said provinces.

Unless there would be exceptions in the act of 1905 covering what my hon. friend has just mentioned, I think they would belong to the province. So far as this government is concerned, our intention is to convey to the province of Alberta its natural resources and everything which would go with them.

Mr. GEARY: You will have to carry out that intention when the time arrives because there is nothing in there now.

Paragraphs 1 to 5 agreed to.

On paragraph 6.

Mr. BOURASSA: Mr. Chairman, the letter which the Prime Minister wrote to Mr. Brownlee on December 29, 1928, contains this paragraph:

[Mr. C. A. Stewart.]

With respect to the school lands trust fund and the school lands, it is proposed that these shall pass to the administration of the province but shall be set aside and continue to be administered by the province for the support of schools organized and carried on therein in accordance with the laws of the province, but in compliance with the letter and spirit of the constitution.

That was the suggestion made by the Prime Minister to Mr. Brownlee when negotiations were opened regarding the transfer of these lands. As I pointed out the other day, this expression of the intentions of the government with regard to the school lands and fund was worded in exactly the same terms as were used at the Winnipeg convention, when a motion was adopted unanimously by the representatives of the Conservative party there assembled from all points in Canada. Whatever that expression was worth legally, I think it could be taken as an indication that this disposition would have received the approval of the whole house. I thought it was a very significant and hopeful sign that the Prime Minister should in his correspondence make use of the very same terms which had been used by the delegates to a Conservative convention. I was very happy to know that the two parties were coming to a point of agreement, not only in sentiment but in vocabulary.

Why were those words left out? Was it at the special request of Mr. Brownlee? Why do they not appear at the end of clause 7 of the agreement? Although couched in more precise language, this clause is practically the paragraph which I have just quoted from the letter of the Prime Minister, but with the last words left out.

As I pointed out this afternoon in discussing another subject, the words "in compliance with the letter and spirit of the constitution" either mean something or they mean nothing. Perhaps the Prime Minister should not be charged with this omission, because he is not a lawyer. But he has the habit of expressing himself, on constitutional matters, in very clear and strong language, and no doubt he had some idea in his mind when he included those words in his letter. I suppose the hon. member for St. Lawrence-St. George had something in his mind when he succeeded in having all of his party approve of those words. More than that, the late member for Frontenac-Addington, Hon. J. W. Edwards, who could hardly be accused of giving way to sinister designs on the part of the Roman Catholic hierarchy or the Roman Catholic minority, incorporated those very words in a motion presented to the house. I do not

remember whether that motion went to a vote, but I know that it was received very favourably by the whole house.

But in spite of all that, those words have been left out. Why? Surely Mr. Brownlee does not intend to pass laws regarding schools which will be against the letter and spirit of the constitution. Surely it is not the intention of this government to agree that anything regarding schools or what little remains of minority rights shall not be respected according to the letter and spirit of the constitution. It seems to me that we should have an explanation of why these words have been left out.

Mr. LAPOINTE: Perhaps my hon. friend will not object to my answering his question rather than the Prime Minister, because we lawyers are more responsible than he for these words having been eliminated. I know my hon. friend usually does not trust lawyers regarding these things.

Mr. BOURASSA: I trust some, my hon. friend especially.

Mr. LAPOINTE: Thank you. I know my hon. friend would be rather embarrassed in endeavouring to give a legal definition of the words, "letter and spirit of the constitution." One has only to read the speeches delivered last year on the motion of the late member for Frontenac-Addington to realize that the words "the letter and spirit of the constitution" can be interpreted in different ways by different people. The spirit of the constitution as interpreted in speeches delivered by the late member for Frontenac-Addington, by the hon. member for Toronto Northwest and even by the hon. member for Rosetown—and I read his speech in the debate of last year—is very different from the spirit of the constitution as enunciated by the hon. member for Labelle and others. The term "the letter and spirit of the constitution" is very satisfactory to indicate a state of mind, but as to inserting it in a statute or other legal document, it is verbiage. I think it is safer to rely on law than on words such as "the letter and spirit of the constitution." The law is based upon the constitution; it is derived from the constitution. It is the constitution that gives the legislative power, and when you say it will be according to the law of the province, you say as much as is necessary to make it according to the constitution.

There is still less danger, so far as the point of view of my hon. friend in regard to the matter is concerned, as there is a judgment of the Supreme Court of Canada defining

the constitution, and the law of the province is of course what the constitution says it must be. I think counsel representing both sides to the agreement in the various provinces were right in inserting the words as they are in the agreement and eliminating the others, which not only were not necessary, but, if they could serve a purpose in a resolution or speech, would rather confuse the issue if put into a statute or other legal document. That is my honest opinion in regard to the matter.

Mr. BOURASSA: I do not want to prolong the discussion unduly, but I beg respectfully to remind my good friend the Minister of Justice of one feature of this question. As I said *soto voce* and as I say now in full voice, he is one of the lawyers in whom I have much confidence, especially when he makes use of his native common sense to interpret his own law. If this were a text of law; if this were a piece of legislation, there would be much in the argumentation of the hon. gentleman. But this is first an agreement; it is only to be ratified by law. Again I rely with not too much hesitancy or humility upon my experience by reading and otherwise. It is a good thing at times to introduce into a contract—and this is done frequently in private as well as in public matters—between individuals and governments such words as help in governing the interpretation of what might be called the strictly legal enactments of that contract. What I have in mind is this: Frequently it has been stated that under our constitution public education is a matter exclusively provincial with the exception of reservations contained in section 93 of the British North America Act. If my personal sentiments were concerned, if we had to draft the constitution of the country to-day, I repeat now what I have said time and again, namely, that I would never think of introducing into the constitution of Canada that involved and obscure section 93 which has not protected the minorities when their rights were attacked by brutal majorities, but which has given rise to so many useless political and racial struggles. But it must not be forgotten, it must be repeated once in a while, especially for the representatives of those parts of the country which are largely populated by newcomers, that section 93, which was restated in section 22 of the Manitoba Act and which was restated in a much modified form in those two sections 17 of the Alberta and Saskatchewan Acts, was not introduced as a principle of the constitution at the request of the Roman Catholics or the French of Lower Canada or

of the other provinces. On the contrary, they made it quite clear that they were prepared to run a risk and accept in practice as well as in law the principle of absolute provincial autonomy in matters of education.

It was in London, in what has been called the Treaty of London, that the delegated representative of the Protestants of Lower Canada, Mr. Galt, later on Sir Alexander Galt, who had resigned from the government for that very purpose, insisted on inserting in the constitution a section which made of education a matter by itself. When Lord Carnarvon, then Secretary of State for the Colonies, explained the bill in the House of Lords in what remains the most illuminating of all British parliamentary explanations of our constitution, he made it clear that legislative powers were of three classes: those reserved to the central government, by section 91; those reserved to the provincial government by section 92, and education, which formed a subject by itself, not to be under the exclusive jurisdiction of either the provinces or the federal authority. Any hon. gentleman who tries to understand the spirit and letter of the constitution as it was imposed upon us at the request of the Protestant minority of Quebec and for its protection, will realize that education was made, so to speak, a mixed matter under the usual jurisdiction of the provinces but under a sort of paternal control on the part of the federal government. I repeat; so far as I am concerned I do not think this should have been done, but it was done. It was done primarily for the protection of the Protestant minority; but naturally, although this might have been in the minds of some, nobody avowed that there ought to be one law for Protestant minorities and another for Catholic minorities, and therefore it was made to operate in behalf of all minorities.

Likewise it is under the guiding spirit of that abnormal, extraordinary section that the law of 1875, to which I referred the other day, was passed unanimously by parliament for the protection for all time to come of minorities, whether Catholic or Protestant, in the Northwest Territories and the future provinces to be created therein; and it is that basic principle which has been to a large extent broken and unfulfilled in passing the laws of 1905. I repeat those things once more, not for the pleasure of reopening an old debate; but since it has been reopened and presented in various forms, it is just as well we should realize the whole basis of it.

Therefore, in order to have a clear and intelligent interpretation of that clause which

[Mr. Bourassa.]

is supposed to maintain what—and it is very little—remains of the rights of minorities of those two provinces, I think it would have been a good thing to introduce those words, of the Prime Minister, in his letter of December, 1928, although I admit with the Minister of Justice that they would not have had any strict legal bearing; but they would have had, so to speak, a moral bearing. I have read time and again decisions of the privy council where words that had no peculiar legal significance were taken as throwing light upon the intention of the parties to an agreement or of the legislature. In that sense, words which may be of little legal value may acquire great indirect value in the interpretation of the law.

I credit the Prime Minister with this: He is full of sense. I have had occasion on many times, as have both his friends and his opponents, to realize that he has a broader and surer grip of constitutional issues than many lawyers. That is very often the case in connection with constitutional enactments; and surely he had something in his mind when he wrote that. Surely, on the other hand, the hon. member for St. Lawrence-St. George—I am glad that he is not present at the moment because I feel freer to say this, that he is a broadminded Canadian, and a man with much experience in the interpretation of law, both constitutional and ordinary law—surely he had something in his mind when he made use of the same words. The Minister of Justice says that these words are good for speeches. But they are not in a speech. They are in the letter of the Prime Minister of Canada, opening up a new correspondence with one of the provincial governments and laying down the basis of this agreement. I have read that correspondence very carefully; I have read with particular pleasure the correspondence exchanged between the Prime Minister and Premier Brownlee, because evidently throughout that correspondence there is a frank and loyal effort to achieve an agreement that will fulfil the desires of both parties. I repeat, there must have been some reason for putting in those words, and there must have been a motive for taking them out, and that is what I would like to have made clear.

Mr. MACKENZIE KING: I thank my hon. friend for his kind personal reference. I am afraid that in this matter I was more or less subject to the same sort of feeling with respect to my colleagues as he has been generous enough to express towards myself. The view seemed to be at the time the communication was sent that the particular words

mentioned were not essential in a contract or legal document; that while they might and would have an important bearing in a resolution or in a speech, they would neither add to nor subtract from the value of the agreement itself. At all events that was the representation that was made to me by the legal minds which had a part in the drafting, and I confess that I accepted that view. But I rather incline to the point of view of my hon. friend that occasionally a little additional general phraseology is a good thing.

Mr. BOURASSA: Better stick to your own point of view: As I want to be absolutely frank and straight with everybody, I may say that I have given a good deal of thought and study to another point raised by the hon. member for St. Lawrence-St. George with regard to those four sections of the Dominion Lands Act mentioned in this clause 7 of the agreement. When I read the agreement first I felt as he did, that it was rather strange that the word "inclusive" was not mentioned. But I studied it as carefully as I could, and I must say that the arguments of the Minister of Justice and of the Solicitor General have practically dispelled my doubts and confirmed my opinion. Upon this point, but not upon the other, I think they are right.

May I add this, which I called privately to the attention of my hon. friend from St. Lawrence-St. George after he had made his argument. Not only does it seem impossible to make application of these four sections without taking the four of them together, not only is it impossible to deal with the fund arising out of sale of lands without reference to clause 40, but it seems to me that there is another very strong argument to be made on this point. Everybody admits that clause 37 must apply. That is the clause under which two sections of land in each township are set aside for the purpose of forming the basis of the endowment and provision is made for the sale of those lands. Then the clause ends with these words:

The sum realized from such sale shall become part of the school fund, as provided by section forty of this act.

If it is admitted that section 37 must govern the sale of the lands, then the whole of that clause applies; and the provincial government in binding themselves to reserve these lands and offer them for sale under clause 37, at the same time bind themselves to place the fund under the governing sentence at the end of clause 37, and in order to do that they must make use of clause 40. So, as far as the application of the four clauses is concerned, I do not think that there can be any doubt that

all four apply. I content myself with adding this argument, which struck me when reading the clauses, and which I think confirms and strengthens the argument presented by the Minister of Justice and the Solicitor General, namely, that you cannot separate the four clauses. Not only do they form one section of the act, not only must you make use of all four in order to interpret clause 7 of the present agreement, but you cannot make use of the governing clause, which is clause 37, without immediately putting into operation, so to speak, clause 40.

Mr. GEARY: Surely it says so on the agreement.

Mr. BOURASSA: Perhaps my hon. friend did not follow the discussion the other day, when doubts were raised as to the application of clause 40.

Mr. GEARY: Why should it not apply?

Mr. BOURASSA: I was convinced that it did apply, but I thought that I would add this further argument to strengthen what had already been said in that regard.

Mr. GEARY: It does not hurt it anyway.

Mr. EVANS: I read in the second paragraph of the preamble:

And whereas it is desirable that the province should be placed in a position of equality with the other provinces—

I take that to mean a position of equality constitutionally. The Prime Minister has repeatedly stated that the western provinces are to be placed in a position of equality with the other provinces, and if we are to have equality I am wondering why these words, referring to the school lands and the school lands fund, are put in clause 7 of the agreement:

The school land fund . . . shall be set aside and shall continue to be administered by the province in accordance, mutatis mutandis, with the provisions of section 37 to 40 of the Dominion Lands Act, for the support of schools organized and carried on therein in accordance with the law of the province.

Sections 37 to 40 deal with nothing else but the school lands and the school lands fund. Am I to understand that these school lands and the school lands fund are still to be controlled by the Dominion government.

Some hon. MEMBERS: No.

Mr. EVANS:— or are we to be placed in a position of equality constitutionally with the other provinces?

Some hon. MEMBERS: Yes.

Mr. EVANS: Now, I do not see why those two lines are in that clause, if that is the meaning and if the promises of the Prime Minister are to be taken seriously. As to the words quoted by my hon. friend from Labelle (Mr. Bourassa) from the Conservative resolution passed at Winnipeg, I have no objections at all to their being placed at the end of this section, because then we shall be in a state of equality with the other provinces. I am willing that those words shall go into the agreement and so carry out its purpose in compliance with the letter and spirit of the constitution. But if we are to be constitutionally equal to the other provinces, we are free from the Dominion Lands Act, are we not?

Mr. STEWART (Edmonton): I do not follow the point my hon. friend is making, unless he may think there is, by design or otherwise, some change contemplated in the existing administration of the school lands and the school lands fund. The province takes them over and administers them in exactly the same manner as the federal government are administering them now. That is all that is meant by the clause. May I say to my hon. friend that the transfer of the school lands and the school lands fund is from the control now exercised by the federal government, to be administered by the province in exactly the same way; there is no change.

Mr. SPEAKMAN: I assume the member for Rosetown has reference to this, that while the school lands and the school lands fund will be administered by the provinces they will be administered under the terms of a Dominion act. That at least is as I caught his meaning.

Mr. LAPOINTE: According to the law of the province.

Mr. SPEAKMAN: To be administered under the terms of a Dominion act, which would not leave them absolutely free of Dominion control.

Mr. EVANS: My meaning is that sections 37 to 40 of the Dominion Lands Act are not included in the constitution and they do not apply to school lands other than those in the western provinces. Let us get on a footing of equality constitutionally in this as well as in everything else. Will the member for Labelle (Mr. Bourassa) say that these sections will apply to any school lands in the province of Quebec or in the province of Ontario?

Mr. BOURASSA: No, for the excellent reason that there are no school lands in those provinces.

[Mr. Evans.]

Mr. EVANS: Then we are not in a state of constitutional equality.

Mr. BOURASSA: Yes, I made that precise point at Edmonton. There I met a few legal and political gentlemen who told me that they had never thought of that aspect of the question. For example, in Ontario there were the famous clergy reserve lands of the Church of England which agitated the old legislature of Canada for years. A settlement was finally reached, and the province had to agree to the consequences of that settlement with the Church of England and the other Protestant bodies. That question did not arise in Quebec. But in Quebec we had the famous seigniorial tenure. The seigneuries were parcels of land carved out of the domain of the French crown and handed over to certain concessionaires who were called seigneurs, but who were as a matter of fact colonization agents for the French government. The English government decided to maintain those seigneuries, and it took eighty years to settle the question. The province of Quebec was bound in 1867 by that decision. These various land questions have been differently treated in the various provinces because of the different circumstances under which those questions had arisen. If school endowments had been created in Upper and Lower Canada by the proper authorities previous to confederation, no doubt we would be obliged to abide by what was then done. For example in settlement of the seigniorial question in Lower Canada certain sums of money were levied upon certain parts of the province to extinguish those rights, and were granted to the townships. I remember when I was in the old county council of Ottawa some forty years ago we were still deriving from the treasury of Quebec a small sum arising from that fund, which had been created by another body before the birth of confederation. In the case of the western province those school lands reserves and that fund were created, as I explained the other day, by the parliament of Canada. Whether we consider the parliament of Canada as acting as a sovereign body or as a trustee, nobody, I believe, questions the then obligation of the parliament of Canada to make provisions for education and its right to create that school endowment; and now the provinces inheriting those lands inherit the obligations connected with them, just as my friend, if he purchases a mortgaged property, is bound to pay the mortgage, because he becomes owner of the property subject to that encumbrance.

Mr. SPEAKMAN: There is just one point, Mr. Chairman, that I rather deprecate in the

argument of the hon. member for Labelle, in that his whole contention appears to me to be based upon a somewhat vague distrust of the fairness of the people of those provinces.

Mr. BOURASSA: Oh no, my friend is entirely wrong.

Mr. SPEAKMAN: Then if there is complete confidence in their fairness and justice and good will, it does seem to me that this question, as other questions, might very well be left to them to be dealt with. I have lived there almost all my life and I never heard the question brought up as an issue until it was introduced and discussed in connection with this very matter. There has been no feeling of that kind in the west. I think the hon. member for Labelle and the house as a whole can trust the sense of justice and fairness to the people of Alberta and Saskatchewan and their respective governments to deal generously and fairly with every class of the community.

Mr. LAPOINTE: That is really what is being done.

Mr. SPEAKMAN: I quite appreciate that in the terms of the agreement. I am applying my remarks rather to the argument of the member for Labelle.

Mr. LAPOINTE: That is really what is being done. It is a mark of our confidence in the two provinces that instead of keeping this endowment fund here we are transferring it to them.

Mr. SPEAKMAN: Precisely; but I felt the argument of the hon. member for Labelle was based, perhaps unconsciously, on some distrust of what might be done by the people of those provinces were they left with an entirely free hand to deal with the matter as they thought fit.

Mr. BOURASSA: No. I think my hon. friend gathers that from the silly things that have been circulated in his province of what I never said in this regard.

Mr. SPEAKMAN: No, I was basing my remarks on the argument of my hon. friend this afternoon.

Mr. BOURASSA: My argument is in advance of the position held by my hon. friend, because I have stated that if I were free to deal with the matter I would suppress everything which goes against autonomy in matters of education. I simply say that the principle, having been laid down in 1867, should be maintained in all the provinces according to the various circumstances of each. That is all my argument.

Mr. EVANS: Mr. Chairman, again I should like to ask the Minister of Justice (Mr. Lapointe) if section 7 does not recognize a Dominion suzerainty over the provinces of the west regarding their school lands and school lands fund—

Mr. LAPOINTE: Not at all.

Mr. EVANS: —and does it not preclude the possibility of the Dominion Lands Act being repealed so far as those provinces are concerned and being replaced by a provincial enactment?

Mr. LAPOINTE: I really cannot understand what my hon. friend has in mind in that respect. I think he ought to be satisfied in every way. The school lands endowment has been considered as a trust from 1872 and I think the population of the west is quite satisfied to have the lands continue to be set aside for the purposes of education. Of course it was under the management and administration of the Dominion government and in the right of the Dominion so long as the lands were under the control of the crown. The various public men of Canada from Sir John A. Macdonald down to the present time have said that this was to be preserved as a sacred trust for education. This act will respect and preserve the endowment; those lands will be transferred to the province; they will be under the management of the province and they will be administered according to the laws of the province. Who can complain about that?

Mr. GEARY: I think my hon. friend believes that the reference to the Dominion Lands Act keeps these lands under the authority of the Dominion parliament; that is what is in my hon. friend's mind. He believes they are to be administered in accordance with certain sections of the Dominion act, and fears that the Dominion jurisdiction over these lands is continued by that reference.

Mr. LAPOINTE: My hon. friend knows that the province will have full control.

Mr. GEARY: I am trying to interpret the idea of the hon. gentleman who has just spoken.

Mr. BENNETT: The remarks of the hon. member for Labelle (Mr. Bourassa) as well as those of the Minister of Justice (Mr. Lapointe) prompt me to make a few observations in order to correct certain views as to the history of this law. The hon. member for Labelle referred to section 93 of the British North America Act. That section provides for remedial legislation by parliament in the

event of the rights of minorities being taken from them by provincial legislatures. That is, if minority rights in the province of Manitoba were taken away from the minority by the provincial legislature, and the province declined to redress that wrong, there is power given to the parliament of Canada to pass remedial legislation. When the hon. gentleman made a reference to the struggle for the rights of minorities I felt I would be remiss in my duty did I permit the statement to be made in this parliament without some contradiction that the hon. gentleman and those who are now his friends were entirely responsible for the protection of what they have called minority rights.

Let us look at the history of the transaction. In the constitution of the province of Manitoba there is a provision whereby the rights of minorities are protected. Those rights were disregarded by a Liberal administration. Not only were they disregarded by a Liberal administration but that Liberal administration under Mr. Greenway and Mr. Sifton swept the province on two occasions with violent cries such as you will find similar record of in few parts of this North American continent. When they had again reasserted the claim to deprive the minority of their rights and appeals were made with respect to disallowance, their answer was simply to reenact the statute. Just as often as any effort could be made to restrict or lessen the power exercised by that legislature, just as quickly did the legislature reenact a statute depriving them of the rights. I do not rest that statement merely upon my allegations. The privy council decided in the Barrett case that the rights of minorities had been taken away by the legislature of Manitoba; that legislature was a Liberal administration. Manitoba was under the control of a Liberal government, and the appeals which were made must be in the mind of every member who has read the papers of that day or who has read the subsequent discussion which took place in respect to the matter in question. After the privy council had decided that minority rights had been taken away by the Liberal government in Manitoba in consequence of a campaign bitterly waged by Mr. Greenway and Mr. Sifton, a separate appeal was made to the privy council to decide whether or not under the provisions of section 93 there was a right in that minority to appeal to this parliament for remedial legislation. Although Sir John Thompson had died just after the publication of the judgment, his successor in office had to deal with the problem. Legislation granting remedial rights was introduced into this parliament by the

government led by Sir Charles Tupper, at a time when Mr., afterwards Sir Wilfrid Laurier was leader of the opposition. This legislation was introduced under the British North America Act. What happened? The Liberal party of that day, there being no limitation to speeches and no closure rules, talked the measure out of existence. The measure died in time and the rights of the minority which were taken from them have never been returned—never. It is true that after the Liberals came into power they took certain diplomatic steps. A gentleman who later became Cardinal Merry del Val came to this country to make an investigation and report. As a result an arrangement was arrived at but the rights of the minority were never returned to them by the Liberal administration of the province of Manitoba.

Mr. LUCAS: Have those minorities suffered any as a consequence of not having those rights?

Mr. BENNETT: As to whether they have suffered I have no idea; I do not live in Manitoba and I am not in a position to express an opinion. I am merely stating historical facts. It seems to me that when the hon. member for Labelle and some of his friends so vigorously attacked the party with which I am now associated they forgot at least the historical basis. The Conservative party suffered defeat in the ensuing election, largely at the hands of the people of Quebec; although Ontario had been denounced in certain sections as being opposed to granting minority rights, that province returned a majority in support of the administration. From 1896 until to-day there has never been an occasion when the province of Quebec has not returned a majority in support of a Liberal administration as opposed to a Conservative administration. So when the hon. gentleman talks about minority rights I would like to remind him that the historical basis is not such as to induce any party to be very much concerned about its protection.

Mr. BOURASSA: That is exactly what I said yesterday.

Mr. BENNETT: Well, all I can say is that the hon. gentleman has a very strange way of expressing himself.

Mr. LAPOINTE: My hon. friend knows very well that we were discussing the Saskatchewan and Alberta situation; he is now going back to Manitoba.

Mr. BENNETT: I am coming to this section.

Mr. LAPOINTE: The whole discussion took place on a speech made by the hon. member for St. Lawrence-St. George.

Mr. BENNETT: I will give the hon. member some facts as to my own experience. I supported the remedial legislation of 1896 and I voted and worked for the Conservative party of that day. Why? Because the constitution of this country is something not lightly to be disregarded or set aside; until it is changed I will support it. If it is necessary to change it we can do so by the methods and means provided by law, but as long as it stands I will not set it at naught. I was a young man then—much younger than I am now—

Mr. LAPOINTE: Oh, you are still young.

Mr. BENNETT: No, I am not, I am sorry to say. At any rate I have stated the historic facts. Sir Wilfrid Laurier declared time and again in this house that no one should interfere with the rights of the provinces with respect to education. I had no idea that the demands were so strong until my attention was directed to them a few years ago. The Minister of Justice referred to the fact that he had been in the house in 1905, and in that year when Mr. Borden in this house by proposed amendments sought to have it declared that the provinces should have complete control of education, the Minister of Justice will recall that the restrictions imposed by section 16 of the original act of 1905 were amended and the restrictions of section 17 substituted therefor. Those restrictions, as the minister very properly stated the other day, are somewhat less strong than the restrictions of the original section 16. That was a direct violation of the principles which the Prime Minister of that day had enunciated when in office, namely that the province should have complete control of its educational matters. The new province—

Mr. CANNON: Having regard to vested rights.

Mr. BENNETT: That is not the point he made then, because there were vested rights in Manitoba and the privy council so decided in 1896. But the prime minister of 1905, the leader of the opposition of 1896, asserted, as my hon. friend the Solicitor General will find by looking at the Hansard of that day, in terms so strong, so vigorous and so far-reaching that there may be no question of equivocation about them, that the provinces should have the right to deal with the question of education. The hon. member for Labelle said to-day during his observations that that was so, because he had been in the house, not in

1896 but in 1905, and he complained that too wide a construction had been placed upon that general expression of power on the part of the provinces.

Then what happened? In 1905 sections 17 of the acts as they now stand were passed, and the contention was raised that these provisions were beyond the legislative competence of this parliament because they did restrict the free exercise of power by the legislature of Alberta or the legislature of Saskatchewan. That question was referred to the Supreme Court of Canada, and last year that court decided that the power was properly exercised and that this parliament had the power to act in the manner indicated.

The bill now before the house provides in terms that there shall be a right to go to the court of last resort to have that question settled, as the hon. member for Labelle has properly said, and these agreements merely mean that in the signing of them such execution is without prejudice to the rights of the province to have that question determined. Perhaps I might make use of a term which I do not know is much used in civil law but which we common law lawyers use frequently; a certain event may happen or a certain thing may be done without prejudice to the rights of the parties, whatever they may be. The right to litigate is a right inherent in citizenship; any citizen can question the legality of the exercise of power, and it would not be necessary to have inserted these words "without prejudice"—I am now using what I might call a mere summary of the words—were it not for the fact that if these agreements in turn were ratified by the privy council as they stood without the provision as to its being without prejudice, the effect would be that it could be no longer litigated. That is all that is meant by it, and the only reason why the province of Alberta has asserted these rights as defined by the section in question that now has been added as an amendment to the operative part of the ratifying statute is because the province of Alberta would naturally obtain the benefit of any such decision were it not for the possible fact that the ratification of the agreement with Alberta might make it no longer open to question, whereas in the neighbouring province it would be open. The only effect of this amendment is to declare that in the event of there being litigation whatever happens with respect to the one shall also inure to the benefit or to the disadvantage of the other. That is all, and the words which have been used are used merely in a legal sense. It is not always wise to think that lawyers are a great detriment to a country.

Mr. LAPOINTE: Or to society.

Mr. BENNETT: Or to society. My hon. friend is a student of history; he realizes that such rights and liberties as the people enjoy in this country to-day have come down through the ages largely through the sacrifice and the courage of men of the profession to which my hon. friend and I belong, men who, whatever may be their failings—and we all have them—at least had the courage at critical moments in the development of our constitution in the motherland to assert that no sovereign, no matter how great he might be, could over-awe or induce them to do other than their duty with respect to matters of important public concern. When a great king said to one of his attorneys general that he as a judge must do so and so, the judge replied, "Your Majesty may be able to find twelve men who will do this, but you will not find one lawyer," and he would not associate himself with the matter. That was an exercise of great courage by a man who was prepared to sacrifice life itself in the preservation of what he believed to be the rights given by law to the citizens of the country. I might ask my hon. friend from Labelle what would happen to the legislation of this country if we had no lawyers.

Mr. BOURASSA: Oh, they have their usefulness.

Mr. BENNETT: They have their usefulness, and of course those who criticize them have their usefulness as well, because they cause lawyers to have even a higher sense of their obligations. However, may I say that in the ultimate analysis all laws depend for their value upon judges. The third great branch of our institution, the judicial branch, determines, interprets and construes what are the rights and privileges under the laws as they are, and therefore it is of the first importance that we should endeavour so to utilize the great power we have to provide that the language effectuates the intention. In this instance the addition of this clause to the Alberta agreement is to effectuate the intention that there shall be no difference between the two provinces and that, if in the end the province of Saskatchewan carries on litigation which inures to its benefit, a corresponding advantage should inure to the neighbouring province, and that the mere failure to add certain words should not make the constitutions of the two communities different in case of ratification of one which included the words and of the other which did not.

[Mr. Bennett.]

That is all we are endeavouring to do in this instance, but it is of great importance to remember the only point I was trying to make to the house. When in the province of Manitoba the Liberal government of that day took the course it did and swept aside the rights of the minorities, appealing to the people, whenever there was a threat of their legislation being disallowed or otherwise dealt with, for a revote of their confidence in the government of that day, they brought about a condition in this country from which we have not yet entirely recovered. I recall that one of the most eminent lawyers in Alberta, a gentleman who subsequently became a judge and who since has passed to his reward, said, "Bennett, why do you concern yourself about these bills? Do you not realize that after the Manitoba case, whatever the majority want to do in Alberta they will do?" He was speaking as a close student of, and a real authority upon, the constitution, and that is the injury that was done to this country by the proceedings of 1896.

We did this: We swept aside constitutional safeguards and, by an appeal to the people, secured a verdict which said that the Conservative party, in endeavouring to stand by that constitution, should be swept out of power, as they were. By so doing we declared against the validity and value of a constitutional safeguard for minorities. That is what we did, and if there is one thing more than another of which those who profess the Conservative faith have reason to be proud, it is this: However great the inducements may have been—and they were great—to have them depart from what they believed and knew to be the constitutional pathway as defined by the privy council, the court of last resort, in the two great cases that went from Manitoba, they did not swerve by a hair's breadth from their duty but marched to their doom at the hands of the electorate, because they were thereby safeguarding the rights of minorities and putting themselves forever upon record as standing by the constitution of this Dominion. By that they still stand.

Mr. CAMPBELL: All through this agreement the lands are referred to as passing into the administration and under the control of the province, the word "ownership" not being used. I would like the minister to explain if ownership actually is intended?

Mr. LAPOINTE: The Solicitor General explained yesterday that the ownership is really in the crown. The crown acts in different ways; here it is the crown in the right of the Dominion; in the province of Quebec

it is the crown in the right of the province of Quebec, and in Alberta it is the crown in the right of the province of Alberta. The crown cannot very well transfer ownership from itself to itself. That is why those words are used; it is merely a legal way of expressing what my hon. friend has in mind. In practice, the ownership will be in the province.

Mr. CAMPBELL: That is, the federal government is conferring all it possesses.

Mr. LAPOINTE: Exactly.

Paragraph agreed to.

On paragraph 8.

Mr. BENNETT: Has this paragraph been considered in the light of my statement the other day as to what I conceived to be the facts?

Mr. LAPOINTE: There is much in what my hon. friend said the other day, and obviously some other step will be taken after this has been approved by parliament. Whether that step will be contained in the address asking for imperial legislation, or by means of a Dominion statute, remains to be decided. We are asking parliament to ratify these agreements with the provinces, and legislation will be adopted to give effect to every provision.

Mr. BENNETT: This seems to me an opportune occasion to repeat what I mentioned the other day. We deal with these matters by drafting and enacting a statute of this parliament. We have received a contract which has been ratified and approved, that contract representing the considered views of the province and the Dominion. There being an agreement as to the terms upon which the transfer is to be made, we then proceed, as we did with the old Manitoba Act, to pass a statute. We ratify the agreement, and have the statute ratified in Great Britain, as was done with the Manitoba Act. That is, the first section would declare that all lands, and so on, are now vested in the crown in the right of the province, and then it would continue to the end. That statute would repeal section 6 of the Irrigation Act, and that section of the autonomy act of 1905 which says, "inasmuch as the provinces will be without their lands"—

Mr. STEWART (Edmonton): The Irrigation Act can be repealed by this parliament.

Mr. BENNETT: We would pass a statute which would be beyond our legislative competence, as was the case with the Manitoba Act. That statute would then be ratified and confirmed at Westminster, as was the case with the Manitoba Act.

Mr. LAPOINTE: Does my hon. friend say that the Manitoba Act was beyond our competence? I know that doubts were expressed to that effect.

Mr. BENNETT: They thought it was; I will put it that way.

Mr. LAPOINTE: The law officers of the crown were not of that opinion.

Mr. BENNETT: The law officers of the crown in Great Britain had grave doubts when they were asked for an opinion in respect of it, and it was recited that there were doubts as to its validity.

Mr. CANNON: You mean by the imperial act.

Mr. BENNETT: Yes. If this agreement is sent to Great Britain we cannot ask with any force and effect for validation of the agreement because there is still left outstanding the sections of the autonomy bill and of the Irrigation Act. The question will arise as to our power to repeal that section of the autonomy bill, because it can be done only by an imperial statute. If we completed the whole transaction by enacting a statute after the agreement had been ratified, we would meet the difficulty. I do not offer this from any party standpoint, but because I have been trying to find some method of dealing with this matter. It was only in the middle of the other night that a solution came to my mind.

Mr. LAPOINTE: Was it a dream?

Mr. BENNETT: No, it was not a dream like I had at Winnipeg; it was a real fact. I had not been able to sleep, and I was going over in my mind what had taken place during the day. I still think that the law officers of the crown will find that that is a most convenient way to deal with the transaction. I do not make this suggestion in any spirit of partisanship, but rather from an earnest desire to see a fact accomplished after the letter of the law has been fulfilled. If we are not careful, we will ratify the agreement and find that no resources have been transferred in law.

Mr. LAPOINTE: You mean as far as the waters are concerned?

Mr. BENNETT: Yes, and with regard to one or two other matters which stand in somewhat the same position.

Mr. LAPOINTE: All those things will be fully considered.

Mr. BENNETT: There is no doubt that it was the intention of the parties that the water powers should be vested in the province.

Mr. LAPOINTE: No doubt about that.

Paragraph agreed to.

Paragraphs 9 to 16 inclusive agreed to.

On paragraph 17.

Mr. GERSHAW: Would the minister explain this paragraph? It states:

—except so far as the same are agreed to be uncollectible,

Who is to decide that they are uncollectible?

Mr. STEWART (Edmonton): That will be decided by agreement between the minister in charge in the federal government and the officers of the provincial government. As my hon. friend knows, at the present time a board is dealing with somewhat similar conditions, and it is not likely that the federal minister or the federal officer in charge of this matter will accept without complete knowledge the statement of the provincial officers that these accounts are uncollectible.

Paragraph agreed to.

Paragraphs 18 to 25 inclusive agreed to.

Schedule agreed to.

Bill reported.

NATURAL RESOURCES

AGREEMENT WITH SASKATCHEWAN

Hon. CHARLES STEWART (Minister of the Interior) moved the second reading of Bill No. 58, respecting the transfer of the natural resources of Saskatchewan.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Johnston in the chair.

Sections 1 and 2 agreed to.

On the schedule—Memorandum of agreement.

Mr. LAPOINTE: I think the schedule might be accepted without recording every paragraph, because it is the same as the other and everything has been discussed.

Mr. CAMPBELL: In connection with paragraph 4, I would like to ask the Minister of Justice whether that would apply to the grants of land to the Canadian Pacific for right of way and other purposes.

Mr. LAPOINTE: Yes.

Mr. CAMPBELL: I take it then, that under no consideration could the provinces ever get back the right to tax that land. Is that so?

[Mr. Bennett.]

Mr. STEWART (Edmonton): We have spoken of this very often. The province will undoubtedly have to perform in its entirety every contract under the provisions of this agreement. A contract of whatever character that it is incumbent upon the federal government to carry out, the province will have to carry out. This applies all along the line. Whatever obligation by way of contract or otherwise the federal government may have with respect to any of those resources, the province is undertaking to carry out. I cannot make the matter any clearer than that.

Mr. CAMPBELL: I quite understand that, but what I want to get now is the opinion of the Minister of Justice or the Solicitor General in connection with those questions that we expect will be submitted to the courts. Supposing the courts or the privy council decide that the federal government never had the right to grant the Canadian Pacific exemption from taxation, what would be the situation?

Mr. CANNON: I do not really appreciate how such a decision could be given, but assuming that it would, as regards everything which was done by the Dominion the commission would have to deal with the new situation. Whatever had happened in the Northwest Territories since 1870 would be called in question. The situation would be a very difficult one; indeed, the difficulties of the situation would be so numerous that I am inclined to doubt very much whether such a decision could be given. It is, of course, always within the realm of possibility.

Mr. CAMPBELL: I am just taking a hypothetical case. Supposing it happened, then I presume the province would have a claim for damages against the federal parliament.

Mr. LAPOINTE: The commission will deal with that under the agreement.

Mr. CAMPBELL: The accounting?

Mr. LAPOINTE: Yes.

Mr. EVANS: I think a set of questions as to the matters between the two governments that shall be taken before the courts has been agreed upon. Could we have those questions read?

Mr. LAPOINTE: The order in council—because under a section of the Supreme Court Act those questions will have to be embodied in an order in council ordering a reference to the Supreme court—has not yet been

passed. No doubt there will be no objection to showing the questions immediately to my hon. friend, but I think the order in council, when it is passed, should be laid upon the table of the house. I do not see that those questions could be laid on the table, because they have no legal binding until they are embodied in the order in council. The questions as drafted have been accepted by us and it will be stated in the order in council that they are the questions as suggested by the province of Saskatchewan. Although we would have drafted at least some of the questions in a quite different way, in order that there should be no grievance on the part of the province, and as we did not think this would injuriously affect the case of the Dominion, we agreed to accept the questions as they were drafted. Therefore my hon. friend need not have any difficulty about the matter.

Mr. GEARY: I hope when we get to the judicial committee we shall find there is an appellant.

Mr. LAPOINTE: I hope so, especially if the decision of the supreme court is as the other decision was.

Mr. CAMPBELL: There seems to be some doubt as to the application of paragraph 8. I suppose it is the intention of the federal government or parliament to turn over all lakes, rivers, water powers and so forth to the provinces.

Mr. LAPOINTE: Certainly. My hon. friend is right in that, and any step that is necessary to carry that into effect and practice will be adopted,

Mr. FANSHER (Last Mountain): One point in regard to which I should like to set my mind at ease is contained in paragraph 2, which reads:

The province will carry out in accordance with the terms thereof every contract to purchase or lease any crown lands, mines or minerals—

And so forth. A great many people in the central part of Saskatchewan are concerned about the situation respecting Manitou lake. It had been leased under a mineral lease, and when the people found out about it they were up in arms. I would like the Minister of the Interior to tell the committee just how that lease is now held, and just what the position will be when the resources are turned over to the province. Personally I am quite convinced myself, but I think that a statement should be put on Hansard to appease the minds of a large number of people who are interested in this particular question.

Mr. STEWART (Edmonton): I had with me yesterday a memorandum with respect to it, but unfortunately I took it back to the office. I think, however, that I can speak from memory accurately enough with respect to that particular lease of Lake Manitou. It is a mineral lease. It did not and does not carry with it the water right. The water right is still to be granted, and since the date of the issuing of the lease there has been a considerable agitation, which has reached me. We have not taken any steps, and do not propose to take any steps, to allow the lessee to proceed until that question is settled to the satisfaction of other interested parties. I think that is all I can say about the matter. I assume that the province will take the same view when the resources are transferred to them.

Mr. FANSHER (Last Mountain): Then I understand that there will be no change in the present status of this lease, and that no water right will be granted prior to the transfer of the resources?

Mr. STEWART (Edmonton): Not unless there should be delay in the transfer or unless the parties who are objecting should consent. That would be the only way in which anything could be done in the matter, but it is not likely that anything will be done until the resources are transferred to the province. I anticipate that the transfer will take place in a short time, and I do not anticipate that those who are objecting will change their minds.

Mr. FANSHER (Last Mountain): They certainly will not.

Mr. STEWART (Edmonton): That is my information.

Mr. CAMPBELL: Has the minister adopted any particular policy with regard to the leasing of timber berths? I had a letter in today's mail which I am passing over to the department asking about timber berths. Will any more be leased by the federal government before the transfer, or will they all be held up in the meantime?

Mr. STEWART (Edmonton): We must, of course, continue to carry on under our regulations. We are not making any changes in them. My hon. friend knows that when a timber lease is up for disposition it is always advertised and everybody knows that such and such a lease is to be disposed of, and everyone is given the opportunity to bid for it. I do not mean to say that we are going to stop administering until the day the province takes over the resources, but if any-

thing of any considerable moment comes up that it seems to be necessary to deal with, we shall consult the province about it. In the ordinary everyday routine the department will carry on until the date of the transfer.

Mr. CAMPBELL: I quite understand that you cannot stop the ordinary administration, and that the department will have to administer in the meantime. The particular case about which I wrote to the department concerned an application for a timber berth that had not already been advertised. Would the minister go ahead and advertise that lease without the consent of the provincial government?

Mr. STEWART (Edmonton): We might do so. Of course, I find it very difficult to administer affairs for another government. I have difficulty enough administering affairs for this government without having to satisfy all parties concerned. It is very difficult to get to a third or fourth party all the various factors involved in any particular question. So far as timber berths are concerned, they are always advertised and disposed of at public auction to the highest bidder. There will be no change in the method of administration in that respect. Personally as minister I seldom hear about them. These leases are granted under the regulations by the officers of the department after being publicly advertised. We dispose in the same way of even the burnt berths where fires have taken place.

Mr. CAMPBELL: There was no suggestion at all that there would be anything wrong done, but the settlers in that district wanted this particular piece of timber reserved for farmers' permits. The minister knows what I mean.

Mr. STEWART (Edmonton): They do not want it disposed of? In that case it certainly would not be disposed of to some one individual. There would be an arrangement made so that the farmers might have the benefit of the berth. It is a small one, is it?

Mr. CAMPBELL: Yes, it is a small one.

Schedule agreed to.

Bill reported.

NATURAL RESOURCES

AGREEMENT WITH BRITISH COLUMBIA RESPECTING RAILWAY BELT AND PEACE RIVER BLOCK

Hon. CHARLES STEWART (Minister of the Interior) moved the second reading of Bill No. 41, respecting the transfer of the Railway Belt and Peace River Block.

[Mr. C. A. Stewart.]

Motion agreed to, bill read the second time, and the house went into committee thereon, Mr. Johnston in the chair.

Sections 1 and 2 agreed to.

On the schedule—paragraph 6.

Mr. FRASER: In general, what has been done in connection with these ordnance lands. I refer particularly to a block of ordnance lands in my own district in regard to which I understood arrangements were made so that it might be taken out of the area or cancelled entirely and located somewhere else. In general terms would the minister state what agreement has been reached with regard to the Chilcooten ordnance reserve?

Mr. STEWART (Edmonton): Mr. Chairman, I cannot speak definitely of any one particular reserve or ordnance land as it is called. It has been a matter of considerable controversy between the government of British Columbia and the federal government for a number of years, and it is gratifying to know that the matter is settled to the satisfaction of both governments under the provisions of this agreement. The ordnance lands of which we know the acreage and which can be readily defined will pass to the federal government. It is provided by the agreement that transfers can be made as between the federal government and the provincial government, and, although I am not familiar with the particular area my hon. friend has referred to, I think there will be no question that, if agreeable, a substitution of some other territory can be made for that area. In most parts of Canada these ordnance lands are used for military purposes, but frequently it happens in the older provinces that the Department of Defence find they have no longer any use for the lands and they turn them over to the Department of the Interior for administration, and usually for sale. That is the method by which they have been handled in the other provinces, but in British Columbia the provincial authorities felt that they had certain rights in connection with these lands. In some cases, I may say, for instance, in the city of Vancouver itself, there might be doubt as to the validity of the title to some of the lands that were disposed of by the provincial government. All matters affecting title and so on will be cleared up and the federal government retain those ordnance lands; but, as I say, in many instances they are still to be defined by agreement with the province as to acreage and so on. But the principle has been settled that these lands remain the property of the federal government.

Mr. FRASER: Why do you insert the words: "whether the same lie within or without the said railway belt"?

Mr. STEWART (Edmonton): Many of the ordnance lands are outside the railway belt.

Mr. FRASER: The one I am talking about is certainly outside the railway belt.

Mr. STEWART (Edmonton): I cannot give my hon. friend the locations. There are a considerable number of these lands, but I do not think the acreage, except in one or two instances, is very large. Certainly the ordnance lands are not all within the railway belt.

Mr. FRASER: Might I say that I am interested in this parcel of land because it is a well defined area of one hundred thousand acres situated within the very heart of the cattle grazing country and the local cattlemen have been after me for two or three years to see if I could not get a cancellation of that as ordnance land. Were any representations made to the minister for the exchange of these ordnance lands for an equivalent area in some other part of the province? I understand this particular piece of land was inspected by the militia officials and they advised the department that on account of its location it was not at all suited for military purposes of any kind. That being the case, it seems to me that the proper time to deal with it was when this arrangement was being made. If no definite arrangement has been made, is any tribunal to be set up under this agreement to take into consideration the settlement of such questions as this?

Mr. STEWART (Edmonton): No, for the very good reason that we have settled the principle that the ordnance lands shall belong to the federal government, no matter where situated; but we have also agreed that the matter of adjustment with respect to these lands, their area and so on, can be settled later on. I am sorry that the subject of the transfer of this particular piece of land has not been brought to my attention, nor am I able to tell my hon. friend whether it has been leased. Perhaps he can tell me whether leases of that strip of land have been issued by the Department of the Interior to the cattlemen?

Mr. FRASER: The land I refer to is right in the centre of a large cattle grazing area, and up to the present time I do not think any leases have been issued.

Mr. STEWART (Edmonton): And they pay no rentals to anyone?

Mr. FRASER: I do not think so, but I am not sure about it. I believe there was a tentative arrangement entered into between the two governments for the provincial government to collect the taxes and pay them over to the federal government. Whether that arrangement was completed or not I cannot say. But let me refer the minister to section 8:

The location and boundaries of the several parcels of ordnance and admiralty lands aforesaid shall be referred for determination to two persons, one of whom shall be appointed by the governor general in council, and one by the lieutenant-governor in council, and in the event of a disagreement between the said two persons, an umpire shall be selected by agreement between the Minister of Justice for Canada and the Attorney General of British Columbia.

Can the minister tell me what significance section 8 has? Would it have any relation to just such cases as this?

Mr. STEWART (Edmonton): My difficulty about the ordnance lands is this: there are many parcels of such lands under the control not of the Department of the Interior, but of the Department of Defence, and I think perhaps that department has been in control of the land that my hon. friend mentioned, for this reason, that apparently the officers of that department made an inspection of the land and decided that it was not fit for military purposes. That is what I understood him to say.

Mr. FRASER: Yes.

Mr. STEWART (Edmonton): The result is that I am unable to tell him whether there has been a transfer of that land from the Department of Defence to the Department of the Interior, but I think likely that has not happened; for had it been transferred the cattlemen would be paying rentals under leases; we would look after that at once.

Mr. FRASER: You are better collectors than the other fellows.

Mr. STEWART (Edmonton): Well, we sell, lease or otherwise dispose of these lands in the interest of the federal government. That is our duty when they are turned over to us. But, as I say, in many cases the dispute between our government and the government of British Columbia was as to who actually owned these lands. That dispute has been settled by this agreement under which it is agreed that the federal government shall own and control those lands in British Columbia. The commission to settle the extent and location is provided for in the section quoted by my hon. friend. So that the whole

matter will be cleared up by the commission. If my hon. friend and the people in that locality make representations to the government that they are desirous of having that land remain in the hands of the provincial government, and some more suitable land in another part of British Columbia can be substituted for it, their representations will be given full consideration.

Mr. FRASER: Do I understand from the minister now that this section which I have quoted will transfer control of this ordnance land from the Department of Defence to the Department of the Interior?

Sir EUGENE Fiset: May I say to my hon. friend that in 1919 a survey of all ordnance lands that were not actually needed for military purposes was made, and they were transferred to the Department of the Interior to deal with them as they might think fit.

Mr. FRASER: Did I understand the hon. gentleman to indicate that this land belonged to the Department of the Interior?

Sir EUGENE Fiset: Speaking from memory, I think this is one of the pieces of land claimed by the military officials my hon. friend referred to a minute ago, and transferred to the Department of the Interior.

Mr. STEWART (Edmonton): What my hon. friend says is true, but in many cases the transfer has not yet been made from the one department to the other. We will try to clear that matter up now that the matter of ownership has been definitely decided.

Mr. FRASER: My information in this matter is very definite; I am told that the ownership of this land is in the military authorities and not in the Department of the Interior. Do I understand the minister to intimate again that he proposes to transfer that land from the Department of National Defence to the department of which he has charge?

Mr. STEWART (Edmonton): The statement of my hon. friend is true. There was a survey of all these lands in Canada; certain of them were represented to be not required for military purposes, and it was the intention that they should be transferred to the Department of the Interior.

Mr. FRASER: And this is one of them?

Mr. STEWART (Edmonton): Yes. Many of those lands have been transferred and we have made disposition of them. Some of them, however, have not been transferred. Unfortunately I am unable at the present

[Mr. C. A. Stewart.]

time to get information as to those particular pieces of land; I can give the information to my hon. friend to-morrow. Those lands in British Columbia, known as ordnance lands, which are not required for military purposes will be transferred for disposal to the Department of the Interior. The commission provided for in section 8 will decide upon the extent and in some cases the location of these lands so that the whole matter will be cleared up.

Mr. FRASER: I am asking the minister why he did not clear the matter up when the agreement was being made; why did he not transfer it back to the province of British Columbia? The department is supposed to be transferring back to the province of British Columbia lands which were formerly in the Peace River block and the railway belt. Why did the minister not make a clean job of it and clear up this piece of land?

Mr. STEWART (Edmonton): I wish to say that I took a very determined stand in respect to ordnance lands. These lands were set aside for military purposes in all the provinces of Canada. We are treating British Columbia in exactly the same manner as we are treating the other provinces. That has always been my contention in regard to this matter. I do not deny that the officials of the provincial government made a very strong claim as to those lands, particularly those which were not required for military purposes. I think however that we were on sound ground in standing upon our rights as to these lands. We had kept them in all the other provinces, and we were treating British Columbia in exactly the same manner as we had treated the other provincial governments.

Mr. FRASER: These lands were set aside for military purposes and it has been declared by the military authorities that they are not suitable for military purposes. Why were they not considered in the general turnover of lands to the province of British Columbia? It has created a situation which has affected the stock men of that section. The matter should have been settled.

Mr. STEWART (Edmonton): It is settled.

Mr. FRASER: No, it is not settled.

Mr. STEWART (Edmonton): Absolutely. This controversy with respect to ownership had been going on for some years, and it is now settled. The lands in question will be the property of and be administered by the federal government. I hope that all the lands which come under the control of the Depart-

ment of the Interior will be disposed of, leased or put to some useful purpose. Those which are required for military purposes will be kept by the Department of National Defence and administered by that department. The others will be treated just as we treat them in the other provinces of Canada.

Paragraph agreed to.

Paragraphs 9 and 10 agreed to.

On paragraph 11.

Mr. BARBER: I would like to ask an explanation of the clause:

—and there shall in addition be reserved and retained by Canada the foreshores and beds of the Fraser river and the Pitt river lying above the eastern boundaries of New Westminster harbour and below lines to be ascertained and defined by agreement at the junction of Kanaka creek with the Fraser river and at the point of the exit of the Pitt river from Pitt lake.

What is the reason for this reservation?

Mr. STEWART (Edmonton): I think it was made at the request of the harbour board in order that they might be assured of control, as they are a federal body. As it is usually contended that the ownership of the land carries with it the ownership of the water they might otherwise have some difficulty, and it was agreed in this particular instance between the provincial authorities and the federal government that those rights should be reserved to the Dominion.

Mr. BARBER: There are many miles of this water which are not navigable. It runs up east of Hell's Gate.

Mr. STEVENS: It is somewhat extraordinary; apparently it runs from the easterly boundary of New Westminster harbour up the river for about 150 miles. It takes in the whole of the Fraser canyon which is not navigable but in which there is a great deal of placer mining. The deposits are renewed from year to year; at low water they work the various bars and deposits which come down during the freshet period. Consequently that placer mining would be retained under the control of the Dominion.

Mr. STEWART (Edmonton): I must confess that I have never discussed this part of the agreement. I do know about New Westminster harbour; I know the territory of the Fraser canyon, but I really cannot say—

Mr. FRASER: Would the matter of power have anything to do with it?

Mr. STEWART (Edmonton): If it did there would be all the more reason why the province should have it.

Mr. STEVENS: Exactly, because they received the power by special act of parliament in 1913.

Mr. FRASER: What about the mining rights? For instance, we lease certain areas to dredging companies at say \$50 or \$100 per mile. If you are to transfer the ownership of the bed of the river from the province to the Dominion, what are you going to do about the mining leases? Are you going to introduce a set of mining regulations to apply to say 150 miles of the Fraser river and to no other part of British Columbia? What about the small mining man? From Hell's Gate to Lytton—and this extends almost to Lytton—we have a number of small miners who make a little money by rocking on these bars and benches during the low water period. What about miners' licences and leases; are you to take them away from the miners and substitute federal mining regulations for provincial regulations over this area? I may tell the minister that quite a number of men will be affected if that is done. There are many mining claims of all kinds along the Fraser river above Hell's Gate, and I might almost say from Yale and Hope, all the way down the river. We know very well that the bars at Yale and Hope were very prolific gold bearers in the old days, and some of them may be worked for gold in the future.

Mr. STEWART (Edmonton): I cannot give my hon. friend the reasons to-night; I will get them for the house before this measure is given third reading and ascertain why these foreshore rights are retained. As I say, I knew of the grant to the New Westminster harbour board; that right was conceded them, but I am not familiar with this particular clause, and I would much prefer to ascertain why it is here and give the answer to-morrow.

Paragraph agreed to.

On paragraph 12.

Mr. BARBER: I should like an explanation of the rights of the Canadian Pacific Railway Company throughout this dyking area. Have they some rights now? Why is this provision inserted?

Mr. STEWART (Edmonton): This was put in at the request of the Canadian Pacific Railway Company. If I remember rightly there are one or two very small parcels of land which have not been patented to the Canadian Pacific Railway Company, and they have some further claims of some sort. This provision is inserted to protect them when the ownership is transferred to the province.

Mr. BARBER: Right of way property?

Mr. STEWART (Edmonton): Something about the right of way, some small portion that has not been completely patented from the crown to the company.

Paragraph agreed to.

Paragraph 13 agreed to.

On paragraphs 14 to 20.

Mr. STEVENS: I should like to ask the minister one or two questions in this connection. I think this is the clause which appears in the other bills?

Mr. STEWART (Edmonton): Yes, they are all the same.

Mr. STEVENS: I am not questioning the form, but I should like some information as to its application. If I am not mistaken there are some parks in British Columbia now belonging to the province which are being transferred to the Dominion for national park purposes outside of the railway belt and Peace river block. Is that correct?

Mr. STEWART (Edmonton): No. It was intended to take in a portion of land west of Mount Assiniboia, to include Mount Robson south, and a small portion west of the Waterton lake area, but the provincial government felt that the transferring of all their rights, mineral and otherwise, in these parks would not warrant their giving us a larger extent of territory than we now have in the railway belt, and for that reason they desired more time for consideration before agreeing to transfer to us these areas I have mentioned, as well as another park at sea level which is still in question. I do not think there is any doubt that we will come to an arrangement about these areas as well as the sea level park, but at the moment they are not in question.

Mr. STEVENS: If I recall correctly, some years ago there was a dispute as to the right of the Dominion to the minerals in the then existing national parks in British Columbia and I think in the railway belt as well. Was that question settled by legal procedure; if not, how was it settled, and what was the settlement?

Mr. STEWART (Edmonton): The province asserted its right at Field, for example, which was a mine in question where they had issued a lease and were getting whatever returns were to be had. The dispute was going on in the meantime, but under the agreement all the minerals in the park now will come to us. I have no knowledge of any settlement of the matter by the courts, and I have no

[Mr. C. A. Stewart.]

recollection of its ever having been referred to the courts. It just remains in that rather unsatisfactory condition, with the province asserting its claim to the minerals, which claim is disputed by the federal government.

Mr. STEVENS: Then assuming there was no settlement, does this clause now confirm the right of the Dominion to the minerals in the parks?

Mr. STEWART (Edmonton): Yes, but with the proviso that the federal government have made it abundantly clear that they do not desire to exploit the minerals or water powers in the parks. They propose to keep these parks inviolate as playgrounds, wild life sanctuaries, as nature created them, for the benefit of the people of Canada, and are ready to spend money on the parks for that purpose. If it develops that there are areas in the parks where mineral belts may extend, and if it is found that these belts are very valuable, the arrangement provides that these areas will be taken out of the parks and retransferred to the provinces for their own purposes, the provinces to enjoy the full benefits of exploitation. It is further provided that if a similar condition should exist in the centre of a park, where it would not be convenient to transfer territory in that way, and if parliament should decide in its wisdom that mineral exploitation should be carried on, then any return from that exploitation greater than may be required for the operation of that particular park will be returned to the province. I should like to make it very clear that as far as the federal government is concerned we do not intend to commercialize the park areas in any way. Rather the reverse is the case; we are absolutely opposed to it. For instance, there is the Field mine, which I understand is rather a valuable property and which we could not very well close, but we do not intend in any way to commercialize park property. We would rather be absolutely clear of that sort of thing and throw such areas outside of the park boundaries altogether for the provinces to exploit.

Mr. FRASER: Does the minister propose to allow prospecting in these areas?

Mr. STEWART (Edmonton): Not if I know it; but unfortunately I do not know it usually.

Mr. FRASER: Supposing a prospector who has a licence which gives him the right to prospect for minerals anywhere in British Columbia goes into your park to prospect. What will you do—throw him out?

Mr. STEWART (Edmonton): No, I would not throw him out; he would have to obtain a licence to develop his property.

Mr. FRASER: What licence?

Mr. STEWART (Edmonton): He could not develop it without a licence.

Mr. FRASER: A licence from the federal authorities?

Mr. STEWART (Edmonton): Yes.

Mr. FRASER: Any mining that is carried on in those areas must be carried on under a licence from the federal government.

Mr. STEWART (Edmonton): It could not be done in any other way. Under the provisions of the parks bill which is to come before the house, he would not be able to obtain his licence until his application came before parliament, and I doubt very much if he would then obtain a licence.

Mr. FRASER: Why is the federal government so insistent upon depriving the province of its mineral rights? Notwithstanding the agreement, I rather resent that attitude. Apparently the government would not complete this arrangement unless the mineral rights were turned over to the federal authorities.

Mr. STEWART (Edmonton): If the federal government is going to spend money upon these national parks for the purpose of preserving them in their natural beauty for the benefit, first, of the people of the province in which they are located, and second, for the people of the whole of Canada, those parks should be kept for that purpose; that is the reason for that provision in the agreement. If they should be more valuable for commercial purposes, then the federal government does not want them. This government has tried to select parks in areas where there was little possibility of mineral development. If a mineral belt should extend into the area of any of these parks, we should be very glad to put that area out of the park boundaries. The reason why we are so insistent that there shall not be any commercial development in the parks is because the great attraction of these areas is the fact that that class of development is absent. The parks are kept just as God and nature left them. The minute that attraction is destroyed the parks lose their usefulness, and the money expended by the federal government is of no avail.

Mr. FRASER: I am not much of a lawyer, but as I understand it these lands are held by the province of British Columbia in trust

for the people of that province. Has that province the authority to transfer those lands in fee simple to the federal government?

Mr. STEWART (Edmonton): Of course the province has authority; it has control over its lands. It has authority over the lands outside of the Peace River block and the railway belt just as much as we have authority over other lands, or at least will have that authority when it is given to us by parliament. When the legislature gives the province that authority, it will be able to transfer those lands to us.

Paragraphs 14 to 20 inclusive agreed to.

Paragraph 21 agreed to.

On paragraph 22.

Mr. FRASER: How did you get to number 22, Mr. Chairman? I think you have slipped a cog there.

The CHAIRMAN (Sir Eugene Fiset): Paragraph 22 covers historic sites and bird sanctuaries.

Mr. FRASER: We were discussing section 15.

The CHAIRMAN (Sir Eugene Fiset): When I called the paragraphs dealing with parks, I mentioned paragraphs 14 to 20 inclusive, all being under the heading of parks.

Mr. FRASER: I would like to make a statement regarding paragraph 18. Under the provisions of that paragraph you would be controlling not only the waters in the parks, but those outside the parks. The minister must realize the importance of water in the railway belt. Suppose there should be a piece of land outside the railway belt irrigated by a stream running into the parks; according to my interpretation of this section, you would have control not only of the water in the park but of the water outside. Why has the government been so insistent upon such wide powers regarding the waters?

Mr. STEWART (Edmonton): All we want to do is to control the waters inside the parks. My hon. friend knows that neither we as the crown nor anyone else can dam water or divert it from its natural course. All we are doing is to take control over the waters inside the boundaries of the parks. We cannot deprive a man of any rights which are inherent under the law.

Mr. FRASER: The paragraph reads:

All rights of the crown in any waters within the said parks shall be vested in and administered by Canada, and the province will not by works outside any such park reduce the flow of

water in any of the rivers or streams within the said park to less than the flow which the Minister of the Interior may deem necessary adequately to preserve the scenic beauty of the said park.

Apparently the scenic beauty of the park is to be of more importance than the needs of a man who may be irrigating a piece of land or who may be using water for mining purposes.

Mr. STEWART (Edmonton): This is simply a precautionary measure. There are waters which flow from provincial lands into the parks, and waters which flow from the parks to provincial lands, and this is merely a precaution so that we may not be deprived of our rights in that respect. We have no desire to deprive anyone else of any rights which they may have.

Paragraph agreed to.

Paragraphs 23 to 27 inclusive agreed to.

Schedule agreed to.

Bill reported.

RAILWAY ACT AMENDMENT

Hon. T. A. CRERAR (Minister of Railways and Canals) moved the second reading of Bill No. 124, to amend the Railway Act.

Mr. STEVENS: Is this bill to be referred to a special committee?

Mr. CRERAR: No.

Mr. STEVENS: Will the hon. minister give us an explanation?

Mr. CRERAR: I gave a brief explanation the other day when the bill was introduced.

Mr. STEVENS: Probably we could first go into committee.

Mr. CRERAR: Very well.

Motion agreed to and the house went into committee, Sir Eugene Fiset in the chair.

On section 1—Signatures on certificates may be facsimiles.

Mr. CRERAR: This is a slight change in section 82 of the act to provide that signatures of officers of the company on certificates of shares may be facsimiles when such certificates are signed manually by a transfer agent of the company and the registrar of the shares. It is simply to facilitate the ease with which these certificates, which are very numerous, can be signed. The same provision applies to the signing of bonds issued by railway companies.

Mr. STEVENS: One signature, I suppose, must be manual.

[Mr. Fraser.]

Mr. CRERAR: The signature of officers of the company may be facsimiles when the signatures of the registrar and of the transfer agent are manual.

Section agreed to.

On section 2—Railway on highway.

Mr. CRERAR: This amendment is asked for by the Board of Railway Commissioners. At the present time when a railway passes along or across a highway, compensation may be had. The arbitrators are judges of the courts in the various provinces and they have held that when the Board of Railway Commissioners direct them to hear a case for compensation, by that act compensation has to be given. This is merely to give the arbitrators power to decide whether or not compensation should be given, and, of course, if they decide that it should be given, the amount of such compensation.

Section agreed to.

On section 3—Bell and whistle.

Mr. CRERAR: The explanation of this is very simple. At the present time the act provides that locomotive engines propelled by steam shall be equipped with whistles or other signalling devices. This is simply to enlarge the scope of the section to apply to engines other than those propelled by steam, for instance, gas engines, electrically driven Diesel engines. This also is in accordance with the request of the railway commission.

Section agreed to.

On section 4—Sale of goods.

Mr. GEARY: Why is the time reduced to four weeks in the case of ordinary goods? It is six weeks now.

Mr. STEVENS: Under the old section it was six. This reduces it to four.

Mr. CRERAR: I think under the section as it stands at present, it is six weeks for everything.

Mr. GEARY: Yes, but why for ordinary goods cut the time down to four weeks? There does not seem any good reason.

Mr. CRERAR: I think four weeks is a reasonable time to give to owners of goods. In any case the goods cannot be sold until they are advertised.

Mr. GEARY: In the case of a pawnbroker the time is a year, is it not?

Mr. CRERAR: I could not say as to that.