

I want some more light on the subject. I think it will be admitted that the Dominion parliament in 1881 had power to legislate as to this exemption up to the time that these unorganized Territories, should be created into provinces. While these were unorganized Territories, and while they were not formed into provinces the only way by which that legislation could be interfered with would be by a repeal of the statute. That, of course has not taken place up to the present time nor should it have taken place, because, in so far as the Dominion parliament in 1881 had power to legislate on the subject, I agree with the contention that it is the duty of this parliament to observe and maintain that compact. As my hon. friend beside me says it is a contract. I have not been able to give as much attention to this matter as I should have, and I may be wrong, but this question strikes me: Had the parliament of Canada, in 1881, power to legislate for these unorganized Territories beyond the time that they remained unorganized Territories and to extend the operation of that legislation to the time after they became provinces? If they had the power to do so we are right still in continuing the exemption that is proposed here, but if they had not the power to do so, if when these unorganized Territories are created into provinces they should have the right under the British North America Act to deal exclusively with the subject of taxation then this question suggests itself to me: Are we justified in making good, as I believe we would be by this provision, what might have been an excessive power exercised by the Dominion parliament at the time that this legislation was enacted in 1881? If that could be made clear to me I could quite easily see the position of the government and of those who are supporting it on the other side of the House. But, I would like to see the necessity for enacting this section 23. If we were to put something into this Bill which would destroy the rights of the Canadian Pacific Railway under the enactment of 1881 we would be doing wrong just as much as we would be doing wrong by repealing the Act, but if we leave that absolutely alone, if we are absolutely silent in these Bills creating these provinces as to the exemption clause, what is the position? If the Act passed by the parliament of Canada in 1881 was good or sufficient and they had the power to extend the exemption as they have specified that they have extended it to the time when these Territories should become provinces, then, that cannot affect it, because, even if there is a provision in the British North America Act which gives the Territories exclusive jurisdiction as to taxation after they became provinces they can only assume provincial powers subject to the exemption created by the Act of 1881, granting that the Dominion parliament had

Mr. GALLIHER.

full power to go as far as they did go. Now I may be wrong in the conclusion to which I have come, but if I am right in that conclusion I think that they should be left to whatever exemption they actually receive and actually are entitled by law to receive under the Act of 1881.

Mr. FITZPATRICK. The Act of 1881 does not give any exemption beyond the period during which they shall have a territorial government.

Mr. GALLIHER. The reading, as I understood it, would extend to the time also when they became provinces.

Mr. FITZPATRICK. 'Make provision for becoming provinces'; you will have to have something new then.

Mr. GALLIHER. I did not understand it, and I do not understand it in that way.

Mr. W. F. MACLEAN. The statement of the Minister of Justice is in substance that this is a limitation of the provinces.

Mr. FITZPATRICK. Not of the provinces, of the constitution.

Mr. W. F. MACLEAN. Of the powers of the provinces, and in that way it is asserting the actual jurisdiction of this parliament to do almost whatever it likes. I say this further, that apparently the Canadian Pacific Railway have no confidence in their position as regards this province when it is created, and that they are the petitioners for this clause, and I think hon. gentlemen opposite ought to tell the House whether the Canadian Pacific Railway have come to them and said: You must protect us now from this province, as we imagine our rights will cease to exist after the province is created, and if you do not we will come upon you. The hon. gentleman has been saying a great deal, and so have all the legal gentlemen in the House about the sanctity of contracts and of vested rights. Let me tell the hon. gentlemen, and especially the Minister of Justice, that the government is compelling these little provinces to assume the obligations of the Dominion. The Dominion, which entered into this contract and granted something to the Canadian Pacific Railway, whose honour is at stake, has no hesitation in imposing upon these two little provinces the discharge of the obligation they entered upon. If the minister wants to unload the obligation on the smaller party—on the provinces—he ought to make provision for the provinces assuming the obligation of the greater parliament. But he has not done so, and I do not think there are any morals in that. When hon. gentlemen are talking about morals in law and the sanctity of contracts, I asked them what is their opinion of unloading on these two new governments in the west, these new settlers, the obligations that the Dominion assumed