

I do not really think it is worth while for certain newspapers in this country to quote the opinion of Mr. Christopher Robinson, and say that his opinion is that, on this important constitutional question, there can be no doubt the government is wrong. I am not aware that this government considers that it is bound constitutionally to impose any restrictions; but I am aware that this government believes that in equity and in good conscience it ought to enact section 16 of the Bill.

Now for the present I will follow the example of the leader of the opposition, and deal exclusively with two features of this Bill; first, the question of the land, and second, the educational provisions. Let me draw the attention of the House to this fact that the leader of the opposition, careful lawyer as he undoubtedly is—in his presence I will not say more—does not go beyond this:

May I not further suggest that even if there were any danger—and I do not think there is—it would be the task of good statesmanship to have inserted, if necessary, a provision in this Bill with regard to free homesteads and the prices of those lands, and obtain to it the consent of the people of the Northwest Territories?

That is to say, we are to give them all the lands with a string tied to them. That is so far as my hon. friend would care to go.

Mr. R. L. BORDEN. No, the hon. gentleman is hardly doing me justice. I said in the first instance that it would be a proper policy to hand the lands over to the control and administration of the provinces; then I said if the government declined to do that on account of a reason that has been suggested by the Prime Minister, I thought at least that might have been done which the Minister of Justice has just quoted.

Mr. FITZPATRICK. I stated my hon. friend's opinion so far as I could gather it. I do not wish to misrepresent him, because I have had my own experience in reading my own speeches. I understood him to say that we had power to retain some control over these lands while granting them to the legislatures of the provinces.

Mr. R. L. BORDEN. In order to make myself perfectly clear, I would like to say a word—I do not want to interrupt my hon. friend, for I know how difficult it is to make a consecutive legal argument with constant interruptions, those who have practised in courts have had some experience of that. What I meant to say is simply this, that I thought the lands ought to be handed over, but if we are to concede the principle that the government do not intend to hand them over, then in that case the best thing to do was that which I sug-

gested. I did not intend at the time to deal with the question of legislative power. I may say besides to the Minister of Justice that I think the question of the lands stands so far as legislative power is concerned on a somewhat different basis from that of the educational clauses.

Mr. FITZPATRICK. In dealing with the lands I refer to section 109 of the British North America Act which is made applicable exclusively to the original provinces by name, and applicable to each of the provinces in which the lands were vested at the time of confederation. At the time of confederation the lands referred to in section 109 were the property of the provinces that were coming into confederation. In the present instance the lands are vested in the Sovereign in the right of the Dominion and we would require a divesting Act to part with them. If this Act were simply silent the public domain would remain in the Crown, where it now is. Here again we have the authority of precedent. In the Manitoba case the same principle was applied and as has been explained by the Minister of Finance (Hon. Mr. Fielding) and other speakers, that principle was never departed from, notwithstanding the repeated and urgent requests of Manitoba. I shall not weary the House with a repetition of the answers given by former governments to the requests of Manitoba for the control of their lands. Incidentally I may say, however, that this question was under consideration in the Swamp Lands Case in the Privy Council in 1904. Honourable members will remember that under a Dominion statute it is provided that all Crown lands in Manitoba which are shown to the satisfaction of the Dominion government to be swamp lands shall be transferred to the province and inure wholly to its benefit and use. The government of Manitoba claimed that they were entitled from the date of the statute to the profits on each parcel of lands which had eventually and after a process of selection been transferred. The Privy Council held that the lands did not inure to the benefit and the use of Manitoba until they were transferred.

The fruits or produce now in dispute arose while the administration of the lands was with Canada, and have been duly applied to Canadian uses.

That is to say, while Canada was administering the public domain in Manitoba and the Territories in such a way that the profits arising therefrom inured to the benefit of the Dominion. Something might be said in favour of the principle that these lands should be administered in such a way that the profits arising therefrom would inure to the province or territory in which the lands are situated, but in the Privy Council the question arose incidentally and there it was not even suggested that the Dominion