

rect. The Hudson Bay Company were never the owners. That was the contention of the Dominion government. A compromise was made by the imperial authorities between the Dominion and the company, by which, when we consented to this imperial Act of parliament, the Hudson Bay Company were to get possession of those lands. That is altogether foreign to the question now before the committee. Why should there be a different tenure, why should the Hudson Bay Company be in a different position in that province from any other man who has a title from the Crown, whether from the imperial authorities or the Dominion government? You do not know the extent of that tenure. Will that pass over to the province in the same position as the right of every other man to land in that province? I do not expect the province will interfere or do anything that is wrong, or will make a breach of the contract. But why limit the power? As I said before, every other province has exclusive jurisdiction over property and civil rights, and why make any limitation here? They have a right to do wrong if they like, they have a right to take your property or mine without compensation, or at least they have the power, if not the right; and if they have the power, why should that power be limited in reference to these lands?

Mr. FITZPATRICK. The hon. gentleman was not in the House in 1881, apparently, when the provision with respect to the Canadian Pacific Railway tax exemption was imposed on Manitoba by Act of this parliament, chapter 14, 44 Victoria.

Mr. HAGGART. The tax exemption imposed on Manitoba covered the Territories which were added to the province of Manitoba.

Mr. FITZPATRICK. That principle was applied which we are now acting upon.

Mr. HAGGART. Is it good law?

Mr. FITZPATRICK. It must have been, it was a good precedent.

Mr. HAGGART. It was before the Supreme Court, what was the result?

Mr. FITZPATRICK. It was maintained.

Mr. HAGGART. There were two cases, one in reference to the Territories and one in reference to that portion that was added to Manitoba. The court decided that the Territories could not interfere with the contract that was made by the Dominion government with the Canadian Pacific Railway, for the reason that all the powers which the Territories had were delegated powers, and that the exclusive power to legislate in reference to contracts vested with the Dominion government. Perfectly good law.

Mr. FITZPATRICK. Then it went a little further. There was a division of

opinion on the question my hon. friend referred to, and Judge Macdonald said the exemption would extend to the school taxes when the territory became a province.

Mr. HAGGART. The Northwest Territories had no jurisdiction with reference to the matter. The question of jurisdiction came up, and it was decided that the Territory only had a delegated power. The court could not decide that a territory exercising a delegated power could interfere with a contract made by a parliament which had the jurisdiction and the power over it; and in regard to that part of the territory which was added to Manitoba they decided only that, in respect to that portion, they had no right to tax, not because the taxation was illegal, not because Manitoba had not jurisdiction over the matter, but because there was a contract entered into between the Dominion government and the government of Manitoba, when that portion of the territory was added to Manitoba, that the bargain made between the Dominion government and the Canadian Pacific Railway should have effect in the added territory. What the court held was that a contract was made with the Dominion government, that Manitoba had accepted it, that Manitoba had not repudiated the contract at all, and that until Manitoba repudiated the contract, the power of taxation did not arise at all. That is all that was decided in the matter.

Sir WILFRID LAURIER. Will my hon. friend allow me to ask him what he exactly means? I do not exactly understand what is the contention of my hon. friend. Is his contention that if we pass this section 22 it will be inoperative, and that it will not prevent the provinces from legislating against the Hudson Bay Company?

Mr. HAGGART. That is my contention.

Sir WILFRID LAURIER. Therefore, that this clause will be ultra vires?

Mr. HAGGART. Yes.

Mr. FITZPATRICK. I contend that it is intra vires.

Mr. L. G. MCCARTHY. The same might be said of the Manitoba Act.

Mr. HAGGART. No; the Manitoba Act is confirmed by imperial legislation.

Mr. FITZPATRICK. I contend that this legislation is intra vires; and, in any event, if it is not intra vires, and if any attempt were made to legislate in the direction indicated by the hon. member for Lanark, it would be our clear duty to disallow such legislation and compel the provinces to respect their engagements.

Mr. HAGGART. That is another question. Where the legislation is in the power of the province to pass, and where it is not