

that they are formed into provinces; and if it was not within the right of this government to make such an agreement, then I raised the question whether it was incumbent upon us to carry out the contract.

Mr. R. L. BORDEN. It is not a question of their right to make a contract, it is a question of the effect of a contract when made, it is a question as to whether the government of this country, by virtue of an Act of parliament passed in 1881, can make a contract which shall have effect in the Territories after they are created into provinces. I suppose that is what the hon. gentleman means. I have already expressed my opinion with regard to that, but the hon. member for Assiniboia (Mr. Scott) does not seem to be able to understand it. I have expressed in committee the view which I entertain with regard to it. I say the contract is binding upon the Crown because it was ratified by parliament. The question of legislative jurisdiction respecting Dominion taxation remains in the parliament of Canada; the jurisdiction over provincial taxation goes to the provinces. But in both cases there is a contract to be observed, and neither in the one case or the other could the parliament or legislature properly interfere without compensation. That is the situation as I regard it.* But however that may be, the motion of the hon. member for Assiniboia does not commend itself to my judgment because it does not accomplish what, after all, I presume, he wishes to accomplish. He referred to a provision for expropriation which we proposed to introduce into the National Transcontinental contract. We were not doing what he is doing now, or what he did this afternoon. We prepared a clause providing for and authorizing expropriation and stating the terms of it. The hon. gentleman has done nothing of the kind. If he had made any such motion as that with regard to section 23, or introduced it by an independent Bill, I could understand it; but his motion this afternoon was obviously meaningless for the reason I have stated.

Mr. SCOTT. It was open to the hon. gentleman to help improve it.

Mr. R. L. BORDEN. Well, there are some motions conceived and framed in such a form that no human agency could possibly improve them. The hon. gentleman has apparently accomplished that result in this case. If expropriation is desired, the parliament of Canada can act in the future, and with all deference to my hon. friend the Minister of Justice, I think the legislature of the province can act also in respect to exemption from provincial taxation. But neither the motion which the hon. gentleman proposed this afternoon nor the motion which he proposes now seems to me to deal with the matter in the way in which it should be dealt with. If his motion means

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nothing, because it strikes out something which means nothing, surely that does not improve the situation. If his motion means to disregard a contract into which the government of this country entered in 1881, his motion means something, but it means something with which I certainly cannot agree.

Mr. SCOTT. In the hon. gentleman's opinion, does section 23 mean anything? Does it change the situation?

Mr. R. L. BORDEN. It is a notice to the provinces of this contract, it has at least that operation; and it is proper that at least the provinces should be notified of a contract into which the Crown has entered, and in respect of which the action of the Crown has been ratified by parliament.

Mr. SCOTT. Is there or is there not a possibility that by leaving out section 23 the provinces might be free to tax?

Mr. R. L. BORDEN. That the provinces might be free to tax—I would not think that would improve the situation at all, because even if by inadvertence a provision of that kind were left out of the constitution and an attempt were made to expropriate without compensation that which was a vested right in either the Canadian Pacific Railway or any other corporation, surely the hon. gentleman knows that over and over again the executive of Canada has been called upon to disallow provincial legislation in cases of that kind.

Mr. GALLIHER. Would not the question whether that was a vested right or not, depend upon the question whether parliament in 1881 had power to legislate beyond to the time when these Territories were formed into provinces?

Mr. R. L. BORDEN. The parliament of Canada at that time was the only parliament that had power to enact this legislation. But if the hon. gentleman believes what he says he does to-night, does he not recognize that he has been voting against his conscientious convictions on section 16 of the Bill? If he does not recognize that, then it is useless for me to argue with him.

Mr. GALLIHER. Argument of that kind is no answer to a legal question.

Mr. R. L. BORDEN. Well, it would seem to me to be very much an answer.

Mr. GALLIHER. Supposing even I was wrong, would that strengthen my hon. friend's argument?

Mr. R. L. BORDEN. The hon. gentleman, on clause 16, has taken the position that the parliament of Canada in 1875 could deal with a similar matter, and that there was an obligation on us in future for all time to be governed by that provision. He has distinctly taken that position, if he has taken any position at all. On the other hand