

something in regard to which a limitation is imposed for imperial reasons, or for reasons mentioned in the Order in Council, the question of disallowance would not come in at all. It would not be one of the cases in which you could do anything of the kind.

Mr. R. L. BORDEN. I suppose that what my hon. friend (Mr. Haggart) means is this; in fact, I gather that from the illustration that he gave. He means that while contracts must be observed in good faith, that does not touch the question of the legislative sphere of action. That is what I understand to be his argument.

Mr. HAGGART. Exactly.

Mr. R. L. BORDEN. For example, suppose that the parliament of Canada, or the executive of Canada, had entered into contracts in respect to matters which, under the legislation we are now passing, will henceforth be carried out by the executive of the province, the fact that the parliament or the executive of Canada was under a certain obligation would not be a good ground for refusing to transfer these contracts to the province to be carried out in future by the province. The province, in dealing with these subjects, would be bound by the same necessity of good faith which would be imposed on the executive of Canada to carry out the terms of contracts; and so my hon. friend argues in the same way, that where you are dealing, not with a subject of executive action, but with a matter of legislative jurisdiction, you should act upon similar principles; that where what one might call a legislative contract had been entered into, the mere fact that a legislative contract had been entered into is not a good ground for restricting the sphere of legislative jurisdiction, which, under the terms of the constitution, should be confided to the new province. So far as that goes, of course, there is a very great deal to be said along that line. We can say all that without for one moment suggesting that it would be proper for this parliament or for the provincial legislature to deal in any way with rights created by contract without making due compensation for any violation of these rights which might be effected by legislation. The question arises, not only under section 22, but under section 23; but as we are dealing now more particularly with section 22, I would, in the first place, ask my hon. friend the Minister of Justice whether or not the word 'of' in the second line of the section is a misprint for the word 'or'?

Mr. L. G. MCCARTHY. If you follow the Manitoba Act, it is.

Mr. FITZPATRICK. It should be 'or properties.' I have corrected it.

Mr. R. L. BORDEN. I would like to ask my hon. friend the Minister of Justice to state the nature of the rights or properties which are referred to in this section.

Mr. HAGGART.

Mr. FITZPATRICK. The deed of surrender, which, I may say for the information of the committee, will be found in the statutes of 1872, page lxx., contains this clause, which, I think, is the only clause which has any bearing on the point at issue:

The company is to be at liberty to carry on its trade without hindrance in its corporate capacity and no exceptional tax is to be placed on the company's land, trade, or servants, nor any import duty on goods introduced by them previous to the surrender.

Of course, that has no effect. The only part that has any effect is in respect to the exceptional tax. No exceptional tax is to be imposed upon them.

Mr. R. L. BORDEN. Is that a subject of contract?

Mr. FITZPATRICK. Yes, it is part of the legal surrender, and not only is it part of the deed of surrender, but it is part of the Order in Council under which the administration of the Northwest Territories was handed over to Canada, so that it is a constitutional provision, as I understand it, or a limitation, at all events, placed upon our power to deal with these lands. I think that if there is anything that we ought to respect it is such a provision as this.

Mr. R. L. BORDEN. I do not think that my hon. friend from Lanark (Mr. Haggart) is suggesting anything to the contrary. He is dealing altogether with the question as to whether the jurisdiction to deal with this matter should be retained by this parliament or transferred absolutely to the local legislature without restriction.

Sir WILFRID LAURIER. He went further than that, as I understood him.

Mr. HAGGART. No; I will explain.

Mr. R. L. BORDEN. I did not understand my hon. friend from Lanark to go farther than that. For example, you might expropriate that right, I suppose, just as you would expropriate any other property of an individual, but in doing so you would necessarily—I say necessarily from the standpoint of justice and fair play—make compensation for it. It may be expedient for this parliament or the provincial legislature to expropriate that right. My hon. friend (Mr. Haggart) is simply arguing that under the sphere of provincial jurisdiction that power should be confided to the provincial legislature. As has been frequently said by judges in the courts: you are not to expect that the legislature or executive will do wrong; you are to expect they will act according to the principles of justice. I presume that my hon. friend (Mr. Haggart) in making the suggestion, was going upon the principle that in confiding this power to the provincial legislature you would necessarily expect that not only would it be exercised wisely, but with due regard to all rights existing under any contract. Further, there