

Mr. LAPOINTE: The other day the minister admitted the money from the sale of Indian lands belongs to the provinces. He says, however, that he does not wish to pay it back to the provinces because he is trying to come to some agreement whereby the money will be kept in trust for the Indians. The Prime Minister has said—and that is the reason I speak to-day—the trouble is that the privy council did not say that the money should or should not be held as a trust fund for the Indians. My right hon. friend is altogether wrong about that. It has been held that the Indian lands are the property of the provinces, and when they are surrendered in any way the provinces become the sole owners. The Indians have an interest until the land has been surrendered. This has been decided in two well known cases, the first an Ontario case concerning the St. Catharine's Milling Company, which is reported at 14 appeal cases, page 46. In connection with that case the privy council stated as follows:

The crown has all along had a present proprietary estate in the land, upon which the Indian title was a mere burden. The ceded territory was, at the time of the union, land vested in the crown, subject to "an interest other than that of the province in the same" within the meaning of section 109,—

That refers to section 109 of the British North America Act,

—and must now belong to Ontario in terms of that clause, unless its rights have been taken away by some provision of the act of 1867 other than those already noticed.

It appears to them to be sufficient for the purposes of this case that there has been all along vested in the crown a substantial and paramount estate, underlying the Indian title, which became a plenum dominium whenever that title was surrendered or otherwise extinguished.

Then in the year 1920, there was a case between the province of Quebec and the Dominion of Canada which is reported in the Law Reports, Appeal Cases, Volume 1, 1921. At page 411 I find the following:

The Dominion government had, of course, full authority to accept the surrender on behalf of the crown from the Indians, but to quote once more the judgment of the Board in the St. Catherine's Milling Company's case, it had "neither authority nor power to take away from Quebec the interest which had been assigned to that province by the Imperial Statute of 1867." The effect of the surrender would have been otherwise if the view, which no doubt was the view upon which the Dominion government acted, had prevailed—

Which seems to be the view which the right hon. gentleman takes at this time—

—namely, that the beneficial title in the lands was by the act of 1850 vested in the Commis-

sioner of Indian Lands as trustee for the Indians, with authority, subject to the superintendence of the crown, to convert the Indian interest into money for the benefit of the Indians. As already indicated, in their Lordships' opinion that is a view of the act of 1850 which cannot be sustained.

There is no doubt that as soon as those lands were surrendered and sold the money belonged to the province of Quebec. Three hundred thousand dollars of that money is held by this government. The province is asking for it; the province has a right to get it, and I do not see upon what basis my hon. friend can refuse to hand it over. Why should we have further litigation to get that money?

The CHAIRMAN: Shall the item carry?

Some hon. MEMBERS: Carried.

Some hon. MEMBERS: No.

At six o'clock the committee took recess.

After Recess

The committee resumed at eight o'clock.

The CHAIRMAN: Shall the item carry?

Item agreed to.

Progress reported.

INSURANCE BILLS—CONSIDERED IN COMMITTEE

The house resumed, from May 6, consideration in committee of Bills Nos. 67 and 68—Mr. Rhodes—Mr. LaVergne in the chair.

FOREIGN INSURANCE COMPANIES

The CHAIRMAN: The committee is considering Bill No. 67, and the first section is No. 25.

On section 25—Valuation of securities.

Mr. RHODES: I am ready to proceed with this section, but I understand the hon. member for Wetaskiwin has something to say with regard to it. Perhaps we could proceed with the other sections of the bill and return to this section when the hon. member arrives.

Section stands.

Sections 26 to 31 inclusive agreed to.

On section 32—Appraisalment of real estate.

Mr. RHODES: There are two amendments to be proposed to this section.