

Mr. OLIVER. I fancy the reason is that there has to be not only legislation by the province to take over the question of land titles, but there has to be an adjustment of what is called the assurance fund as between the provinces and the Dominion, and therefore special provision is made in that regard. The purpose of the section is not so much to say that the provinces shall substitute provincial legislation for Dominion legislation as it is to say that the legislation of the provinces shall take effect upon and after an arrangement has been arrived at between the provinces and the Dominion in regard to the assurance fund and other matters.

Mr. R. L. BORDEN. Perhaps the Minister of Justice will tell me what is the position under the Bills we have passed? I am not very familiar with the Land Titles Act. I presume it has reference to and deals with the transmission of titles to real estate in the Northwest Territories at the present time. Then does it not follow that the legislatures of the new provinces under the provisions of the Bills that we have passed would deal with that subject as a matter of provincial legislation and if that is the case is it not a little inconsistent to say that we shall authorize the Governor in Council to repeal something which the provincial legislatures, according to my view, would have the right to repeal? Does not this, in effect, repeal pro tanto, section 15 of the Autonomy Bill?

Mr. FITZPATRICK. At the present time under the Land Titles Act of the Northwest Territories the assurance fund is in the hands of the Receiver General. That is a fund which is of course available to both provinces. At the present time the Dominion of Canada is the custodian of that assurance fund, and is responsible for any claims that may be made against it and the intention is to provide for an orderly transfer of the whole of the affairs over to the two provinces so that the matter may be dealt with in such a way that the two provinces may take out of our possession all that fund, we, at the same time, relieving ourselves or responsibility in connection with it.

Mr. R. L. BORDEN. I understand the object. The difficulty is that the language of this section goes a great deal further and authorizes the Governor in Council to repeal legislation as to which we have already conferred jurisdiction on the legislature of each province. The legislature of the province in the future will deal with this matter as a matter of property and civil rights, I suppose?

Mr. FITZPATRICK. Yes.

Mr. R. L. BORDEN. Well, we are at the same time reserving to the Governor in Council power to deal with the same matter.

Mr. R. L. BORDEN.

Mr. FITZPATRICK. We have to deal with the provision so far as we are custodians of this fund.

Mr. R. L. BORDEN. What I draw attention to is that we give to the Governor in Council power to deal with a subject which we have already entrusted to the provincial legislature of each province, and we do that in perfectly general terms.

Mr. FITZPATRICK. I will look into that.

Mr. OLIVER. It is absolutely necessary that this government having the responsibility of this insurance fund, which is to provide for any mistake which may occur in the transfer of titles, should not have to depend for its control of the fund upon legislation by the province.

Mr. R. L. BORDEN. If the Bill went that far only, I would not have a word to say, but it seems to me that it goes a great deal further.

On section 2,

Mr. R. L. BORDEN. What is the object of this section?

Mr. OLIVER. This section is to provide for the release from registration of Dominion lands which have been made subject to registration in connection with irrigation works under the Irrigation Act, provided the irrigation proposals fail either to be carried out or fail after having been constructed, in which case all rights revert to the government; and this is merely a provision that the registration, which in the first place is necessary, shall revert also.

Mr. R. L. BORDEN. You do not give to the grantee any opportunity of defending himself. You apparently provide that the Minister of the Interior may ex parte declare that the rights shall determine. That is a rather unusual power to confer on a department. In a court of justice any citizen of the country is entitled to appear and make his defence against any attempt to deprive him of what had hitherto been his rights. This seems to contemplate an order made ex parte by the Minister of the Interior which shall have the effect of absolutely enjoying a privilege which has hitherto been enjoyed. Is that not rather a stringent provision?

Mr. OLIVER. That is an arbitrary authority which is provided under the Irrigation Act. This merely follows the terms of the Irrigation Act in so far as the removal of registration is concerned. The first part of the clause states the conditions which under the Irrigation Act result in forfeiture, and the latter part merely says that the conditions being thus and so and the forfeiture having occurred, the registration is released.

Mr. R. L. BORDEN. Do you mean that there is already a provision in the Irrigation