

Manitoba, in which it was held that you could not, by the initiative and referendum, enact legislation in which only the legislature and the people had to do, without the intervention of the crown, because it was not legislation within the purview of section 92.

Mr. THORSON: I was not referring to that point.

Mr. BENNETT: No, but that illustrates the point that it cannot divest itself of its legislative authority. The initiative and referendum case made it perfectly clear that a province could not divest itself of its legislative authority in the manner that it was there sought to do.

Mr. CAHAN: But it can exercise its legislative authority.

Mr. BENNETT: Exactly, it can exercise its legislative authority.

Mr. LAPOINTE (Quebec East): That is a very different question.

Mr. BENNETT: I wish to answer the point raised by my hon. friend from Selkirk (Mr. Thorson), because it is one of some importance. The legislature in the exercise of its powers is not subject to the control of this parliament or the judges of the country; it is subject only to the control of the people. That has been declared so often as not to require restatement. Recently, in a leading case, the court said, "It is not for us to say whether or not the legislature has been wise or unwise. We are here to determine a pure question of law, and the question of law is whether or not there is jurisdiction to exercise the power." That is the general principle, I think, which governs. In the exercise of that power the legislature of Alberta, if it were in session to-day, might authorize the executive to enter into an agreement with the government of Canada for the purpose of guaranteeing its bonds. That is obvious. I think no lawyer would question that it could enter into that agreement—my hon. friend nods his head—with the Dominion of Canada whereby the dominion would guarantee the bonds of the province of Alberta. The next step in the proceedings is this: Is it competent for that legislature at the same time to provide that, for the purpose of securing the dominion against loss by reason of the guarantee, it shall have a first charge, lien or claim against any moneys due, present or future, by the Dominion of Canada to that province? That is the question at issue. My hon. friend says that there may be some doubt about that, as it is a matter that has not been determined by the courts. I would not be prepared to

[Mr. Bennett.]

say that there is no doubt about every question. There once stood in this house a solicitor general who boasted that the decisions of the courts amply warranted an opinion which he gave, that the decisions were all in favour of the attitude which he had taken. Within a few weeks afterwards the privy council spoke, and decided adversely to the view he had expressed. That was the case of the Calgary and Edmonton mineral rights.

Mr. LAPOINTE (Quebec East): It may happen again.

Mr. BENNETT: That is what I am saying; it may happen any time you are dealing with problems of that kind. But it is one thing to remove doubts; it is another question to declare, in terms such as are used here, that the power does not exist. I protest against the provinces being thus treated. I protest against this parliament being thus treated. For surely it does not require a parliament at Westminster to pass a statute to confer upon this parliament the jurisdiction to deal with its own revenues, nor does it require any legislation to enable a province, having had conferred upon it the powers I mentioned yesterday, to enter into an agreement with respect to its own bonds and its own securities. It might well be that there is doubt as to how far that would arise with respect to moneys that were covered by the original act, but not the subsequent acts, as I shall presently point out, because with respect to subsequent acts you have an entirely different set of considerations. You have confederation an accomplished fact; you have the dominion voting, through its representatives, that certain moneys collected from the people shall be utilized as the legislature of a province may think desirable or necessary. If they see fit to deal with those moneys in that way, that is all that can be said about it. There is no doubt, I submit, as to the powers existing with respect to all moneys other than those covered by original section 118, that is, all subsequent payments, whatever may be said as to section 118, and I leave it at that.

The next section of this resolution provides:

The legislature of any province may charge the principal, interest or sinking fund of the guaranteed securities on any revenue of the province, upon terms that such revenue shall, if the government of Canada so requires, be disbursed exclusively in payment of such principal, interest or sinking fund and may, if the government of Canada so requires, provide for the depositing of all funds from the revenue so charged in a trust account in an bank or banks for the purpose of implementing the said charge.