

Mr. CAHAN: It clearly states that there is no doubt, by stating that it is now illegal.

Mr. BENNETT: I am just coming to that. It makes it clear that there is no doubt as to illegality. Is that right?

The said clause shall be deemed to have retroactive effect with respect to provincial legislation in force at the passing of this act.

Having regard to the fact that all direct taxation, within the broad definition of direct taxation given by Lord Cave, is invalid, are we doing just the right thing in asking the imperial parliament at Westminster—they having undertaken to pass statutes when we ask them by petition to do so—to pass an amendment which says that the illegal taking of money from various persons shall thereby become legal, or to pass an amendment with respect to litigation that may now be pending? I submit that nothing can be better calculated to cast a slur upon our credit than that very thing, because it indicates a willingness on our part to connive at the doing of something which we now admit is illegal. Is that right? I do not put it upon legal grounds alone. The first occasion upon which I ever appeared in the privy council was on a case just such as that. Alberta passed a statute by which it was provided that \$6,000,000 lying in the bank to the credit of the Alberta and Great Waterways Railway should become part of the general revenues of that province—just like that; the provincial treasurer issued a cheque for the amount and sent the cheque to the bank, and upon my advice the bank refused to cash the cheque. Ultimately the privy council held that the statute was invalid, because it purported to take money that had been raised for one purpose and use it for another. The act cast an aspersion upon our legislature. I submit that it is very unwise at this particular moment for the Dominion of Canada solemnly, through the Senate and the House of Commons, to ask the parliament of Westminster to say that the will of the Canadian people is that that which was invalid shall become valid, although it constitutes taking by illegal and improper means from the citizens of the country that to which the governments of the provinces had no right.

That is the position which I put to the house. I think I understand as fully as anyone may the necessities of the provinces in the matter of increasing their revenues. But I also feel, and very strongly, that to suggest there is any analogy between the retroactive provisions of the statutes which we have had before, and this statute, is to have a complete misapprehension as to the conditions and terms that are involved in the expression of the judg-

[Mr. Bennett.]

ments of the courts, on the one hand, and of the legislatures and parliament, on the other. I would urge upon the government as strongly as I can the desirability of considering this matter, not from any party motive or standpoint, but purely from the point of view of what the effect will be upon our country when it is found that we here are solemnly asking the parliament which passed the British North America Act to add to it a provision that will be retroactive, regardless of litigation, and will provide that whatever has been illegally done is now legally done, and that money extracted by illegal means shall now be regarded as having been lawfully taken.

There is another point I desire to take with respect to this matter, as showing in my judgment why it is unnecessary that this resolution should be passed. It will be recalled that the provinces have power to create municipal institutions. Once that power is granted to a province, it can, of course, be passed on to the municipalities. The effect of that I hesitate to contemplate, knowing what I do know in connection with the grant of powers by legislatures to municipalities and what the effects have been in various parts of the dominion. I should like the house to contemplate the exercise of this power by the legislature of a province conferring jurisdiction on the municipal bodies to impose indirect taxation on retail sales within that province. It may be said that that is limited by the last words, "in order to the raising of a revenue for provincial purposes." But those words have not been held in times past to be ample to prevent a delegation of powers by a province to municipalities, and in the judgments of our courts it will be recalled that provinces have delegated to municipalities the power to licence, as long as it does not amount to a prohibition. These powers, delegated by the legislative body creating the municipality, give rise in my judgment to an almost intolerable situation. I conclude this by saying that you may have three taxes of the same kind with respect to the same matter. Bear in mind that we have in this dominion a sales tax; at one time we had a business profits tax, and we have other forms of direct taxation to which reference has been made; but now the provinces are going to exercise their powers of indirect taxation. I cannot put the situation more strongly than I did a moment ago, having regard to the declared purpose of at least one government in Canada and the methods to be used for the purpose of raising revenue. You do not have to make a capital levy, although that is what it amounts to. All you do is, by this indirect method, to make a levy which may amount to