

Therefore, I repeat, there is no necessity for the proposed resolution to guarantee loans or bonds or debentures of provinces in so far as it refers to guarantees of these securities of the provinces and as it proposes also to create a regulatory body known as a loan council in respect of these matters. They have that power here now. There is one other answer which I should like to read from another page, with respect to the question whether or not a contract was entered into. The answer which the witness gave indicates, I think, what I have pointed out here, namely, that there is no necessity for this parliament to go to the British parliament to amend our constitution. I would point out that the proposed legislation is *ultra vires* of the parliament of Canada.

Under section 92 of the British North America Act the provinces have exclusive jurisdiction with respect to municipal institutions, property and civil rights, direct taxation in the province in order to the raising of a revenue for provincial purposes, the borrowing of money on the sole credit of the province, and generally all matters of a merely local or private nature in the province. I object to this gross invasion, as contemplated by the resolution, of the rights of the municipalities. If we passed this resolution it would be a grave encroachment upon the municipal institutions of the country. A few years ago, I remember, the Lemieux Act was upset in the privy council. It attacked a certain municipality or two which had guaranteed and sold bonds on the basis of a large public undertaking of \$100,000,000 almost on cheap light, power and transportation, and this parliament thereupon proposed by the Lemieux Act to impose regulations upon them. Lord Haldane held that the Lemieux Act was *ultra vires* because it interfered with municipal institutions in the province, with employers and employees, with the right of contract and, in addition thereto, with property and civil rights in the province. It was attacked also on the grounds of public policy and vested rights.

It will be noticed also that in many respects this particular resolution collides with section 91. The provinces are assuming the right of taxation over whom? Over all business men. In the retail streets of my riding, every retail merchant is going to have new and duplicate taxation imposed upon him in an arbitrary way by federal and provincial authorities. I am surprised that a government which professes the principles of Liberalism should propose such an amendment as this, which in the first place interferes so much with the liberty of the subject

[Mr. Church.]

and municipal institutions and their revenue, and, second, is so gross an invasion of the basis of confederation, namely that the provinces shall be satisfied with direct taxation plus a federal subsidy. Now the government has handed over to them assistance by way of relief measures, national emergency measures; many of the provinces are getting these grants, to help them balance their budgets at the expense of the municipalities, while other provinces do not receive any. The municipalities of the two central provinces are dangerously affected in their financial position and the stability of the bonds and securities which they have sold. By the decision of the privy council in the Alberta case, the Snider case, the Through Traffic case, the Aerial Navigation case and many taxation cases it was held where bonds and securities are sold and contracts have been made, under section 92, the rights of the provinces and of municipal institutions in the provinces shall not be interfered with as they have vested rights and contracts; they are safeguarded by both section 91 and 92, as I read the decisions of the privy council and the answers of Mr. Edwards and the other witnesses before the committee last year. The privy council, when a section is under review, considers the whole story of the British North America Act from beginning to end.

Supposing we pass this legislation and somebody appeals to the courts. Under our constitution the courts are subservient to the legislature as long as the legislature stays in its own field. Over here you have the federal field; over there you have the provincial field and the municipal field. More than two-thirds of the provincial field of legislation relates to the municipalities. There never should have been any provincial legislatures. They were created for political and not for economic purposes with overgovernment and overtaxation. They have been at the root of all dissension in this country; they have imposed untold taxation, with the result that we have overgovernment and overtaxation in Canada. Business men have a right to protest when you are going to hand over to the provinces indirect taxation, when you increase the imposts on retail merchants, when a few months ago the provinces took over the income tax—by what right I do not know; I doubt whether the legislation is legal—when this parliament imposes a direct tax in the manner they did a few months ago, though the decisions show that if the levy is made by a legislative body it is a direct tax. Now here you are imposing