

legislation, will not be apparent to the public, and require consideration. In particular, it is not clear why such persons as Senators, Members of the House of Commons, judges, and persons entering into contracts with His Majesty in the right of Canada are excluded from the provisions of the amendment;

6. Because under the proposed amendment a creditor is put to the expense of obtaining a judgment and garnishee order and forwarding them to the Minister of Finance but the Minister of Finance is not under any obligation to make deductions from the sums payable to the debtor of such person;

7. Because in the form the proposed amendment is open to the following objections:—

(a) The expression “third party” is well understood to mean a person made a party by a defendant who claims to be entitled to contributions or indemnity from such person. A garnishee is not a third party.

(b) This proposal is to extend to claims by the provinces for taxes. Where the Crown seeks to recover its taxes from third persons such remedies as the Writ of Extent are ordinarily employed rather than garnishee proceedings. It may even be doubted whether the Crown is entitled to proceed by way of garnishee since such expression as “person” and “judgment creditor” used in the provincial statutes relating to garnishee proceedings are not apt to describe His Majesty. The municipality too has special remedies to enforce payment of taxes.

(c) The expression “garnishment” implies compulsion and is an inappropriate term to use with reference to His Majesty even though the statute provides merely for voluntary and not compulsory payments.

(d) The Exchequer Court has by statute exclusive jurisdiction over claims against the Dominion Crown and it should be made clear that the Senate proposal is to apply notwithstanding anything contained in the Exchequer Court Act.

(e) The Minister of Finance has no “representative capacity” to represent His Majesty in the courts; that representative capacity is vested in the Attorney General of Canada.

8. There has been no demand from the public for this legislation and it is an inappropriate stage of the session at which to open up a matter of such extent and importance.

Ordered,—That the Clerk of the House do carry the said Message to the Senate.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the Commons.

Ordered, That the said Message be taken into consideration presently.

The Senate, accordingly, proceeded to the consideration of the said Message. After debate, and—

On motion of the Honourable Senator Dandurand, it was—

Resolved,—That a Message be sent to the House of Commons to acquaint that House that the Senate doth not insist upon its second and third amendments made to the Bill (99), intituled: “An Act to amend An Act respecting debts due to the Crown,” to which the House of Commons have disagreed.

Ordered, That a Message be sent to the House of Commons accordingly.