

Dominion officials resident within the province, and, if they are, whether such power is in conflict with or inconsistent with the powers given to the Dominion Parliament under the 91st section?

Section 92 gives the provincial legislatures power exclusively to make laws in relation to matters coming within the classes of subjects, next hereafter enumerated. Sub-sec. 2. Direct taxation within the province in order to the raising of a revenue for provincial purposes.

Now, it does not seem to me open to argument that these words are large and broad enough to cover a provincial income tax reaching all residents of the province.

Unless therefore there is some implied exception or some conflict with a power given to the Dominion Parliament in the 91st section, there would be an end to the case.

Such conflict, however, it is contended is found in sub-sec. 8 of section 91:—

The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

I am unable, however, to see any necessary conflict between the two powers conferred.

The Dominion fixes and provides the salary and the province says "you shall pay to us the same income tax upon your salary as all other residents of the province have to pay upon their incomes." The conflict is, to my mind, an imaginary one. The

province does not attempt to interfere directly with the exercise of the Dominion power, but merely says that, when exercised, the recipients of the salaries shall be amenable to provincial legislation in like manner as all other residents.

But, then, it is suggested, the power, if conceded to the provincial legislature, may be so exercised as to practically defeat the power of the Dominion Government in fixing the salaries. In other words, the power which exists in plain language in sub-section 2 must be limited by the courts for fear of its improvident exercise by the legislature. Time and again the Judicial Committee have declined to give effect to this anticipatory argument or to assume to refuse to declare a power existed in the legislature of the province simply because its improvident exercise might bring it into conflict with an existing power of the Dominion.

It is said, the legislature might authorize an income tax denuding a Dominion official of a tenth or even a fifth of his official income and, in this way, paralyze the Dominion service and impair the efficiency of the service. But it must be borne in mind that the law does not provide for a special tax on Dominion officials but for a general indiscriminatory tax upon the incomes of residents and that Dominion officials could only be taxed upon their incomes in the same ratio and proportion as other residents.

(To be continued.)

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