

ister of Finance is not under any obligation to make deductions from the sums payable to the debtor of such person.

That is true, but I do not think the province of Manitoba or any other authority will hesitate to go to the expense of getting a judgment if this Bill passes. It is known that the Minister will carry out the spirit of the measure. Furthermore, the recalcitrant debtor will become liable for costs as well.

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

Then comes an alphabetical list.

(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.

To paragraph (a) I take specific exception. Usually a third party is brought in by a defendant, but a garnishee is none the less a third party. There is no error in form there. If he is not a third party, what is he? He is not a first, nor a second. Is he a fourth? No. He is a third party, the same as any other person brought in by the two principal contenders.

(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—

That is the Crown in the right of Manitoba they have in mind there.

—since such expressions 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.

The last sentence has no application. As to the preceding part of the paragraph, that would be powerful were it not that Bill 99, if passed, would change the whole situation, so that the conditions objected to would no longer exist. The Crown would then be garnishable. That is the complete answer.

(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.

Well, I suppose garnishment involves compulsion. I presume that is why when we sue the Crown we proceed by petition of right instead of by the ordinary writ of summons. But is there any weight to such objections? There is no affront to the Crown in the word "garnishment," and there is no affront in the legislation, because the discretion, the whole control of the situation, is left by the Bill in the hands of the representatives of the Crown.

Right Hon. Mr. MEIGHEN.

(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.

The answer to that is very plain. This Bill 99 would be special and subsequent legislation, whereas the Exchequer Court Act is general and precedent legislation. Consequently, a non obstante clause is not needed. If such a clause were needed in respect of the proposed amendment 3, there should have been one in the old legislation, for exactly the same reason. There was none, because, as is the case here, special and subsequent legislation, when affected only by a precedent general statute, does not require it.

(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.

These words are true. But we did not give the Minister a representative capacity to represent His Majesty in the courts. We distinctly said it was not necessary for him, on anyone on his behalf, to appear at all.

I now come to the final reason stated by the Commons:

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.

Well, that is a matter of opinion. I can only say that since, as a mere accident, I took part in the debate when the subject-matter came up first in this Chamber, I have received a series of letters, and exactly 100 per cent of them have favoured the legislation.

Hon. A. MARCOTTE: Honourable senators, before we proceed any further with this I should like to ask the honourable leader of the House if in his opinion we are likely to adjourn to-night or not before to-morrow. If we are to be sitting to-morrow, I will move to adjourn this debate until then. On some aspects of this question I am not in agreement at all with the right honourable leader on this side (Right Hon. Mr. Meighen), and I should like to ask him if before making his comments on the reasons sent over from the House of Commons he had an opportunity to get the opinion of our Parliamentary Counsel.

Right Hon. Mr. MEIGHEN: Yes, I have discussed them with him.

Hon. Mr. MARCOTTE: This occurs to me to be one more instance where some of us are not treated quite fairly. When legal points are involved, the honourable leader of the House (Hon. Mr. Dandurand), who represents the Government here, can get the opinion