

Mr. McENTYRE: I may just add that Section 92, subsection 7 (A) of the Income War Tax Act was only enacted at the last session of parliament, and came into force in December, 1945.

The other point which I have to make relates to the Bill at Section 43, subsection 13.

Mr. REILLEY: Mr. Chairman, as Mr. McEntyre is dealing with his representation in two memoranda, one relating to income tax and the other to other features of the bill, may I be permitted to make my reply to his representations on this point, at this time?

The ACTING CHAIRMAN: Yes.

Mr. REILLEY: I hesitate to interrupt the witness in this way, but for the benefit of the Committee I think it better that all should be heard on this point when it is right before you.

In the first place, this question of priorities is one of the thorniest that a trustee in bankruptcy has to deal with. I would refer you to page 84 of the bill where you will see listed the various priorities that have been established by the Crown. It has reached such a stage that it is absolutely impossible for any trustee to draft a dividend sheet and say what are the priorities of the Crown. In this memorandum you will see there are some twenty-one priorities established by the Crown in the right of the provinces and of the Dominion. The object of section 126 is to provide a scheme of distribution that a trustee can follow without having to go to twenty-five other Acts scattered all through the statutes of the dominion and the provinces.

Hon. Mr. McGUIRE: Are all these claims prior to those of the trustee?

Mr. REILLEY: Some are. It is hard to say where a great many do belong. After the Bankruptcy Act was passed the Crown in the right of the provinces and of the dominion found its claims were not being paid with the priority that it thought they should get, and in the past twenty-odd years it has become the ordinary practise of the Crown in the right of the dominion and of the provinces every time it might have a debt owing to pass legislation that the claim of the Crown shall have priority over everything else. As a result you see these twenty-odd types of claims, some of one class, some of another, and it has become impossible for any trustee to set up a dividend sheet on a proper basis.

Hon. Mr. LEGER: Are you sure you have them all there in the twenty-one priorities?

Mr. REILLEY: I will take my chance on that.

You spoke, Senator, of the deduction at source payments. The statute says that every person who deducts tax at source is liable to pay it to His Majesty. So immediately that deduction is made it sets up a debt, it is not a trust fund at all. It is merely a debt that is owed to His Majesty.

Hon. Mr. McGUIRE: The employer owes a debt.

Hon. Mr. COPP: It is not a trust fund.

Mr. REILLEY: It is not a trust fund at all. As a matter of fact, the year before last the income tax department had inserted a clause which set it up as a trust fund, and said that it must be paid into the bank and kept separate; it would then belong to the Crown. But they found out that when bankruptcy occurred there was no trust fund in the bank, and consequently there were no funds belonging to it. In an attempt to get a priority that section setting up a trust fund was deleted, and it was made a debt due by the employer to the Crown.

Hon. Mr. LEGER: If the word "pay" was changed to "remit", would that not make it a trust fund?

Mr. REILLEY: I do not know whether it would or not.