

the reasons which actuated the committee in preparing the amendment, and the effect the committee thought it would have on the Bill.

Right Hon. Mr. MEIGHEN: I shall try to do that. What first led the Senate to think of turning the Bill into the form into which the third amendment turns it, namely, into a measure which enabled the Crown to be impleaded in garnishment proceedings as a third party where the claim was against a civil servant or was such as to sound otherwise than in damages, was that, first of all, our Parliamentary Counsel assailed the Bill as *ultra vires* in the form in which it came to us.

The reasons which he gave seemed to me very difficult to answer, and I do not think I am overstating the fact in adding that they were similarly regarded by all other members of the committee. I cannot recall that any member of the committee undertook in any way to question those reasons. The Bill as drafted seemed very vulnerable in its constitutional aspect and likely to be the starting-point of another entourage of litigation on the part of those people who love litigation so much better than the paying of their debts.

Then to honourable members there appeared no good reason why ordinary garnishment proceedings should not be the natural remedy, rather than erecting the Minister of Finance into a quasi-Minister of Justice and, as such, enabling him, by legislation, to determine the merits of claims on the part of the Crown in the right of Manitoba against certain Dominion civil servants. The enabling of the Minister to decide on the merits of the claims seemed implicit in the Bill. Such legislation is extremely difficult to defend, whether from the standpoint of the Constitution or any other standpoint. Therefore the members of the committee felt that the legislation should be in this form: first, leave the main clause as it was, except for the provision that the Minister of Finance, after deciding on the merits of any claim by the province of Manitoba against a civil servant, should take into consideration the exemptions allowed by the province, or such exemptions as in his judgment would enable the civil servant in question, whose salary was being reduced month by month, to give efficient services to the Crown in the right of Canada. We thought it well to leave that clause and only added that it should come into effect on proclamation of the Governor in Council. The idea in the mind of the committee was that the legislation in that form might have the effect of bringing those in question to a

Hon. Mr. DANDURAND.

realization of their position and of what was impending over them in the second part of the Bill as we would amend it, and the purpose might thus be served without the necessity of bringing the second part into effect. The committee took this rather moderate view because of the late stage of the session.

We then proceeded in amendment No. 3, what I call the second part of the Bill, to provide, in terms which we thought were defensible from the constitutional standpoint as well as every other, for garnishment proceedings against the Crown in the same way as against any other party, except in cases sounding in damages.

Now, the House of Commons has accepted the first two amendments. The first authorizes the Minister of Finance to deduct what he deems necessary to enable the civil servant to do his work—call it an exemption or what you will; and the second brings that section into operation only by proclamation.

The second part of the Bill, which is amendment No. 3, the Commons totally reject. For this they give reasons which, I am sorry to say, I am compelled to read in order that I may place on Hansard as briefly as possible what I conceive to be the answer to each.

The first reason is:

1. Because the proposed amendment is of doubtful constitutional validity. The province has exclusive authority in relation to the jurisdiction and procedure in civil matters in provincial courts. By the provincial statutes the garnishee must be "within the jurisdiction of the court" or "within" the province, or "resident in" the county. It is doubtful if Parliament can in effect extend the jurisdiction of the provincial courts to include the Minister of Finance as a garnishee.

My answer is this. This measure interferes not at all with provincial jurisdiction, nor does it seek to extend provincial constitutional authority. Amendment No. 3 is assisting legislation, in the nature of the Doherty Act of years gone by, under which the Parliament of Canada, while it did not invade provincial jurisdiction in respect of the liquor traffic, acted in aid of provincial legislation by prohibiting liquor from being shipped to a province for use contrary to the law of that province. Correspondingly, in this case we aid provincial legislation by enabling a writ to be served on the Dominion of Canada. We alone can do that. No other jurisdiction can authorize a writ of garnishment to be served on a Dominion Minister or a Dominion department. It is something the province cannot do, because the Minister is outside the jurisdiction of the province. In a word, this is aiding legislation and nothing else.