

Mr. McENTYRE: Perhaps I should clarify that a little bit. Under ordinary circumstances where the tax is deducted at the source, if the employee's pay is, say, \$20, the employer simply holds back \$2, which he sends to the Department.

Hon. Mr. LEGER: That is property of the Crown.

Mr. McENTYRE: Yes. But what happens if the employer gets into financial difficulties? He figures that at the end of the week he will owe that employee \$20, but that \$2 of it belongs to the Crown; so he borrows from the bank or collects from his creditors and provides only the \$18, which he gives to the employee, and he says to the employee, "Two dollars of that belongs to the income tax." If the employer goes into bankruptcy soon after that, the amount that belongs to the Crown, the \$2, never existed.

Hon. Mr. LEGER: In other words, you mean that money was found among his assets. That is the only place you could find it.

Mr. McENTYRE: The two dollars as a sum of money or as a trust fund is never there.

Hon. Mr. LEGER: I do not know whether a "claim" is defined, but surely that two dollars you speak of would not be a claim of the Crown; it would be its property.

Mr. McENTYRE: Yes, sir; provided we could find it.

Hon. Mr. EULER: Could you not recover that from the employee?

Mr. McENTYRE: The position is, we have obliged the employee to take a reduced amount of his salary in full payment.

Hon. Mr. EULER: You are really the debtor, instead of the employee being the debtor.

Mr. McENTYRE: We have appointed the employer as our agent to collect this money.

Hon. Mr. EULER: If he fails to discharge his duty as agent, have you any claim left against the employee?

Mr. McENTYRE: We have submitted that to the Department of Justice. They say our Act is not clear on that point, and they suggest we should hesitate to pursue the employee for the recovery of that amount.

Hon. Mr. EULER: You have never done that?

Mr. McENTYRE: No sir, we have never done that.

Hon. Mr. LEGER: If you think that should be classified as a claim of the Crown, surely that subsection should be amended.

Hon. Mr. COPP: Does the employer report every week?

Mr. McENTYRE: Yes, sir.

Hon. Mr. COPP: And remit anything held back?

Mr. McENTYRE: Yes, sir.

Hon. Mr. COPP: So you would have only one week held back at any time.

Mr. McENTYRE: In the administration of the Income War Tax Act we find it impossible to keep tab on every employer every week. Occasionally when bankruptcy occurs we find there may be three or four weeks of arrears of tax deduction at source that have not been remitted.

The ACTING CHAIRMAN: You are speaking of tax deduction at source only?

Mr. McENTYRE: Yes.

The ACTING CHAIRMAN: Your submission is that the employer is the agent of the Crown, and therefore those funds are in the nature of trust funds in his hands; or, as Senator Leger comments, they are really the property of the Crown in the hands of your agent.

Mr. McENTYRE: That is correct.