

palities and the federal government will have an administrative nightmare on its hands.

I am asking Senator Murray to respond to these issues and to assure us that the federal government is satisfied as to its constitutional entitlement. It is a rule of parliamentary practice and convention that parliament will not pass legislation that is palpably unconstitutional and I believe that this legislation has that character. I look forward to Senator Murray's response.

● (2220)

Senator Murray: Honourable senators, Senator Austin points out that section 125 of the Constitution Act provides that lands or property of a province are not subject to tax. There is nothing in Bill C-62 which subjects the provinces to the tax.

At the same time, there is nothing in the Constitution which prohibits the federal parliament from requiring a provincial agency to collect the tax, and that is what we are doing in Bill C-62.

Indeed, in respect of the honourable senator's second question, the bill expressly provides that the taxing provisions of the bill do not apply to Her Majesty in the right of a province—that is, a province or entities which are crown agencies. Municipalities, which the honourable senator mentioned, universities, schools and hospitals are not crown agents.

The short answer is that the bill does apply to provincial agents but only to require them to collect the tax which is imposed on others.

Senator Austin: I appreciate the timely answer, Senator Murray, and I don't intend to enter into a legal quarrel with you. But I will go this far: As you know, three provinces are testing the constitutionality of this legislation and its applicability to those provinces. Litigation has been commenced by the Province of Alberta, which is supported by the Provinces of British Columbia and Ontario.

My own view is that the government should have this issue settled before this legislation proceeds. If the government opinion, as expressed by Senator Murray, is found wanting, there will be an administrative nightmare, and many tens, if not hundreds, of thousands of Canadians will be caught up in it.

MOTION IN AMENDMENT—DIVISION DEFERRED

The Hon. the Speaker: It has been moved by Senator Hays, for Senator MacEachen, seconded by Senator Molgat:

That Bill C-62 be not now read the third time but that the Schedule of the Bill be amended, on page 342, to make provision for electricity and heating fuels by adding to Schedule VI, and numbering accordingly, a new heading and part as follows:

“ELECTRICITY AND HEATING FUELS

1. A supply of electricity and heating fuels.”

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say “Yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion please say “Nay”?

Some Hon. Senators: Nay.

And two honourable senators having risen:

Hon. William J. Petten: Honourable senators, pursuant to provisional Rule P(3)(a), I request that the division be deferred until 5:45 o'clock p.m. on the next sitting day.

An Hon. Senator: Well done!

Senator Petten: Not necessarily, senator. We can ring the bell for 30 minutes. Ask your whip about it.