

He said: Honourable senators, this Bill has been considered by the committee, which reports the same with slight amendments. These amendments are purely verbal and do not affect the import of the Bill.

Hon. J. W. de B. FARRIS: Honourable senators, I move in amendment that the first and second amendments in the committee's report be struck out. I understand that two motions are necessary to do what I propose, and I make this first motion for the purpose of moving a second one to amend an amendment which the committee made this morning in section 4. This is done after consultation with and on the recommendation of the Law Clerk of the Senate.

Before subsection 2 of section 4 of the Bill was amended by the committee it read:

Notwithstanding any provision of the Senate and House of Commons Act or any other Act of the Parliament of Canada, payments under this Act or any previous Order of the Governor in Council may be made to a Member of the Senate or of the House of Commons of Canada with respect to wheat acreage reduction subsequent to 1940 and no such payment shall render any such Member ineligible to sit or vote in the Senate or House of Commons of Canada.

There are several things wrong with that clause, some of which were cured this morning. Mr. MacNeill has conferred with, not all the lawyers in the Senate, for he has not had an opportunity to do that, but with some, including my honourable friend from Winnipeg South-Centre (Hon. Mr. Haig) and myself, and it is his considered opinion that the amendments made by the committee are not sufficient.

One defect still existing in the subsection is that it fails to make any exemption with respect to payments already made. That defect would be cured by the amendment I am about to propose. The Law Clerk's opinion was, before the matter was studied, that the section was retroactive; but now, after consideration has been given to the point, his opinion is that the effect of the section as now worded is not retroactive. Consequently an amendment is necessary. The second omission was partly cured by the amendment made in committee this morning. It related to the defect in the original wording, which says that payments under the Act shall not render any member ineligible to sit or vote in the Senate or House of Commons. This Parliament has nothing to do with the right of a member of the Senate to sit in this Chamber. That is controlled by the British North

Hon. Mr. BLACK.

America Act. In recognition of this fact, the Senate and the House of Commons Act does not purport to vacate the seat of a senator if he receives payment from the Crown; it merely imposes a penalty. So this Bill in its original form was defective in two things. First, it wrongly included senators and members of the House of Commons in an exemption which does not apply to senators, and it fails to give proper protection to senators. It was considered in committee this morning that that protection possibly was not necessary; but it is Mr. MacNeill's opinion now, and it is mine after further study, and, I think, the opinion of my honourable friend from Winnipeg South-Centre (Hon. Mr. Haig) and other lawyers, that it is necessary in view of the words expressed to exempt senators from the penalty in the Senate and House of Commons Act. Those are defects that will be cured by the proposed amendment as drafted by Mr. MacNeill.

The next amendment is to clause 4. Under the Elections Act a person who has a contract with the Crown is disqualified from being a candidate in a Dominion election. If a farmer, for instance, made application for payment under the provisions of the Bill, this might disqualify him from being a candidate for election to Parliament. So this amendment makes it clear that no payments under the Act would disqualify a man from being a candidate.

Therefore I move that the first and second amendments in the report of the committee be struck out. If that is carried I shall move another amendment.

Hon. Mr. KING: Honourable senators, we had this section before us this morning, and the honourable senator from Winnipeg South-Centre was in doubt as to the effect of the amendment we then made. I am sure if these gentlemen, having got together with our Parliamentary Counsel, are, after mature consideration, of opinion the section should be amended, their opinion will be accepted by the Government.

Hon. JOHN T. HAIG: Honourable senators, the fact is that last year there was no legislative authority; action was taken under an Order in Council pursuant to the War Measures Act. When I left the committee this morning I did not think the amendment would cover the Order in Council part, but our Parliamentary Counsel seemed to think it would. However, having considered it further, he came to me after lunch and said, "I believe you are correct." In the meantime