

diction to deal with the subject as to what may or may not be attachable; in other words, whether this law would be constitutional. It may be asked whether the attachment of the salaries of public officers for debt can be dealt with by the Dominion Parliament, or whether that must rest with the provincial parliaments to deal with. I must say that my impression is that it falls entirely within the jurisdiction of the provinces to deal with this subject.

Before the last session of the Quebec legislature commenced, as I was of the opinion that this subject came under the jurisdiction of the province, I had prepared a short Bill to amend our own code of civil procedure, and this Bill was entrusted to the eminent member for St. James Division of Montreal, Mr. Gouin. The Bill was introduced into the Quebec legislature. The Bill went through the legislative assembly, but unfortunately it was killed in the Upper House. It appears that measures of this kind that are progressive and liberal are liable to be killed by the Upper House, not only in this Parliament but in the provincial legislatures. But it is desirable to determine before we go further whether we have the necessary jurisdiction to deal with this matter or not. In the British North America Act hon. gentlemen will find a section referring to this subject.

Mr. PENNY. I should like to ask the hon. gentleman if this Parliament can legislate to attach salaries of merchants' clerks?

Mr. FORTIN. I do not believe so; and that is why I doubt very much that we can go so far as to say that any portion of the salary of a public employee of the Dominion can be attached. It seems to me that they fall under the terms of clause 13 of section 92 of the British North America Act, which gives to the different legislatures exclusive power to deal with property and civil rights in the provinces. To my mind there is no difference between declaring what portion of a salary shall be seizable and declaring whether a stove or stove-pipe or bedstead can be seized or not. It seems to me it is a question of civil right; it is civil property, which can only be dealt with by the legislature of the province. This is my own opinion, and I give it for what it is worth to the House. On the other hand, if hon. gentlemen will refer to section 91 of the British North America Act, they will find that by the enacting clause it is laid down as a rule that all subjects which do not expressly fall within section 92, belong to the Dominion Parliament, and we find in subsection 8 that Parliament may legislate as to the fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada. These are the only references I can find in support of the contention that the Parliament of the Dominion has jurisdiction to deal with

this subject. The question was brought before the courts in an indirect way, and I will give the decisions for what they are worth. The question whether or not the Dominion Parliament has authority to deal with this question, the court was not called upon to decide. The question came up indirectly under the provisions of our provincial statute. Two cases were heard before the courts of Montreal. Rainville, J., in *Crevier v. DeGrandpré & Lamothe*, I.S. 5 L.N. p. 48, held:

(Translation.) I am of opinion that statute 38 Vic., ch. 12 does not apply to officers of the Dominion Government. The exemption of the salaries of public employees from seizure is a matter of constitutional law, and no provincial statute can affect the rights of employees of the federal Government.

The same judge decided, in the case of *Evans v. Hudon & Browne*, T.S. 22 L.C.J. 268:

That the exemption of the salaries of public employees from seizure is a matter of public order, and the Parliament of the province of Quebec has not the power to declare seizable the salaries of employees of the Federal Government, and, therefore, the collector of inland revenue in Montreal is not bound to make the return required by 38 Vic., chap. 12, sec. 5.

These cases do not exactly decide the point. The point submitted in these two cases was not whether a law enacted by this Parliament was constitutional or not; but the question came up indirectly, and the decisions show clearly that this learned judge, the late Mr. Justice Rainville, who was looked upon as a high authority in legal matters, took the view that a provincial legislature had not the power to deal with a question of this kind. I want it to be distinctly understood that although I have doubts as to whether the jurisdiction lies with this Parliament, I have not the slightest reluctance in declaring that a Bill of this kind should be enacted. I entirely approve of attaching the salaries of public officials, just as well as the salaries of other employees, clerks in banks, clerks in mercantile firms and elsewhere, which are seizable. I merely mention this question of authority in order that it may be elucidated by a full discussion in this House. I am not in favour of passing a law which may be attacked before the courts as unconstitutional. It will be far better to ventilate the matter now, and if we come to the conclusion that this Parliament has no power to deal with it, we might then content ourselves with the principle laid down in the first paragraph of the Bill, which has no reference to the salaries of public officers.

Mr. BRITTON. The Bill is a most important one, and I say at the outset that I am in sympathy with the object which the hon. member who proposes the Bill seeks to accomplish. I had thought of the subject before the Bill was introduced, and I read the