

civil servant came to me for advice on his position with respect to this proposed legislation, supposing it were enacted, I should have no hesitation in advising him to protect himself in the courts, because first a fiat would have to be secured to proceed against the Crown. This would mean that the litigation would be taken from the trial court to the appellate courts and eventually to the Privy Council.

But surely we have no right to doubt the ability and willingness of civil servants to pay their debts. We know that as a class civil servants are hard-working and honest. Just because a provincial Legislature passed certain legislation, the constitutionality of which was doubtful, the Federal Government apparently is willing to go to all the trouble of collecting provincial taxation, when there is no evidence before either the Senate or any other body that the provincial authorities have exhausted other means of collection. It would be making it too easy altogether to allow any province to be in a position to say: "Mr. So and So owes us a certain debt. He is a federal civil servant. We do not know whether he has any property, but he is taxable, since he is a resident of this province. Now, Mr. Minister of Finance, you must deduct out of his salary whatever taxation he owes to the province, because the Minister of Justice has said so." Surely if the alleged debtor is a resident of the province the provincial authorities must have a remedy. The only action they would have to take in order to be in a position to collect the debt would be simply to cancel every possible exemption under their own provincial laws. Why the Minister of Finance should be constituted a collector for Manitoba, Quebec, Prince Edward Island or any other province, I should like to know.

Hon. Mr. MURDOCK: Would my honourable friend say why a civil servant should have special privileges in the matter of paying his debts?

Hon. Mr. MARCOTTE: I think I made myself clear in the first instance. We are concerned, not with civil servants, but with the prerogative of the Crown. You cannot sue the Crown unless you get a fiat permitting you to do so.

For the reasons I have stated, in my view the remedy which the province of Manitoba seeks under the Bill is not worth a snap of the fingers.

Hon. Mr. DANDURAND: Honourable senators, it will be remembered that when this Bill came before the House for second reading the opinion was expressed that all civil servants should be brought under the general

law and made subject to garnishee proceedings. The special committee to which this Bill was referred discussed the matter thoroughly, and a tentative amendment was ultimately drafted, which is now known as amendment No. 3.

I draw the attention of the Senate to the fact that at present the Crown can be sued only under a petition of right, founded on a fiat issued by the Minister of Justice. If, under such proceedings, the plaintiff succeeds in obtaining judgment, the Crown is obliged to pay. I know cases have arisen where the Crown's dilatoriness in meeting a judgment raised the question whether the Crown could be pressed for payment.

Right Hon. Mr. MEIGHEN: Under this amendment the Crown is not compellable at all.

Hon. Mr. DANDURAND: I am coming to that point. We have studied the question as fully as was possible in the time at our disposal. As we are aware, in this Chamber there is a pronounced sentiment in favour of some legislation by which civil servants can be made to pay their debts. When the amendment was presented to us we felt it was not altogether satisfactory, and I may indicate just one weakness, to which my right honourable friend has alluded. The amendment proposes:

The Minister of Finance shall not be subject or required to answer in or to attend at any garnishment proceedings; he shall be liable as a third party garnishee in his representative capacity only, and he shall be subject in matters to which this Act extends to orders and directions, specific or general, of the Governor in Council.

This nullifies clause 3. However, it was decided to return the Bill as amended to the House of Commons, to indicate to that House our trend of thought and our desire that some legislation should be drafted which would attain the object we had in view. I for one thought that this action would go a long way towards directing the minds of the legislators of the two Chambers towards a solution. I knew quite well that the matter was too vast and too complex to be taken up at this late date in the session, but I felt that it was a good idea to have the Commons know the feelings of the Senate in this respect. I have good reason to believe that a considerable number of members of the other House, as well as a portion of the public, are in favour of some solution which will satisfy the public conscience.

I do not know what proportion of civil servants have been negligent in meeting their obligations. I have been told by civil