

ral power, and if that be so, and if the Privy Council has determined in defiance of the case of Leprohon and the city of Ottawa, that it is within the powers of the local legislature to tax banks and to levy upon their capital, what difference in principle is there between their doing so and a local legislature taxing the salaries of public officials—I mean to say in principle? There may be considerations which may apply in detail, but in principle I can see no distinction. Any hon. gentleman who is interested in the abstract question, can consult with advantage a book which has just been published by Lefroy on the British North America Act, there the case is discussed in the most admirable manner. He will find there the principle laid down in the case of the Bank of Toronto and Lambe, and since that time there is now very much doubt that the judgment in Leprohon and the city of Ottawa can have any further authority in our courts. Now, if we are placed face to face with that position, why should we go further to consider this Bill, at the present time at all events, without giving this matter very serious consideration? Why should we go so far as to have this doubtful principle applied? Suppose we declare here that the salaries of public officials in the employ of the Federal Government are attachable, and find ourselves in Quebec face to face with the statute there which declares that they are not attachable, immediately a conflict of authority would arise, which it seems to me desirable we should avoid. Now, I would like to draw the attention of the House to this other aspect of the case. The last paragraph of this Bill appears to me to be a clear infringement of the rights of the local Parliament to regulate the procedure in the courts. It is provided here by paragraph 3 how the creditors are to proceed to levy a judgment. I say that is a matter to be settled by the provincial courts, it is a matter over which we have no control, with which we cannot deal at all. Clearly then we have got to eliminate, at all events, that part of the Bill entirely from our consideration. Now, some of my hon. friends have made reference to the civil servants. I think it is only fair that I should draw attention to this fact. The civil servant who enters the employ of the Government makes a contract with the Government. At the time he makes that contract he assumes that he is going to contract obligations subject to the laws that exist at the time. If a man is induced to enter the civil service, and gives good value for the money he receives, if a man who has been unfortunate in business enters the service on the understanding that he will be free from attacks by judgment creditors, it would be very unfair, after he had entered the service, that his contract should be violated. That would be an improper act, and could not be justified.

Mr. FITZPATRICK.

Mr. FOSTER. Where does the contract exist?

The SOLICITOR GENERAL. When he entered the service, there was an implied contract between the parties, and he takes his position subject to the laws that then exist. Of course, there can be modifications of the laws. Our laws are not as the laws of the Medes and Persians, that cannot be altered. The law may be amended, but it should not be amended lightly and without due consideration being given to the rights the members of the civil service possess.

Mr. MACLEAN. Would the Solicitor General answer the question whether the Bill covers the salaries of members and Senators, and payments made to attorneys for conducting Crown cases?

The SOLICITOR GENERAL. If they are paid out of the Consolidated Fund.

Mr. SPROULE. As I interpret this law, it seems to me it would apply equally to members of Parliament and members of the Senate, as to members of the civil service, because all the moneys paid in these cases respectively are under the control of the Parliament of Canada. The Consolidated Revenue Fund is under the control of the Parliament of Canada, because we pass votes for every department and for every purpose for which money is required. The Bill provides:

All moneys in the hands of the Government of Canada or under its control or management, and payable out of the Consolidated Revenue Fund of Canada—

The indemnity paid to members is payable out of the Consolidated Revenue Fund.

—shall be liable to attachment at the suit of any judgment creditor of any person to whom any portion of the said moneys is payable, in the manner and by the same process as moneys in the hands of private persons.

That language is as plain as it can be made, and it applies to members of Parliament and members of the Senate the same as to any persons in the outside or inside civil service.

Mr. SOMERVILLE. So it should.

Mr. SPROULE. I hold that it does apply, and that it should apply. But it occurs to me that it is in conflict with the principle at present existing and carried out, that no persons can collect money from the Crown except by petition of right. In this case we give leave in advance. Such a law would apply to contractors, as well as to civil servants and members of Parliament. There seems to be two objects in this Bill: First, to give authority to collect money from the Crown; second, to say how it could be collected, or to lay down a way. In laying down that way, it is clearly an invasion on the rights of the provincial legislatures, and it is an authority that can only