

Hon. Mr. DANDURAND: There was some discussion of this question in the Special Railway Committee. I stated then that I was in the hands of the Senate, and that to-morrow we could decide whether or not we would sit on Saturday. If the debate on the railway problem is sufficiently advanced by to-morrow evening, we may dispense with a Saturday sitting; but I think it likely that we shall sit Saturday.

The Senate adjourned until to-morrow at 3 p.m.

THE SENATE

Friday, May 12, 1939.

The Senate met at 3 p.m., the Speaker in the Chair.

Prayers and routine proceedings.

PRAIRIE FARM ASSISTANCE BILL

REPORT OF COMMITTEE

Hon. Mr. DONNELLY presented, and moved concurrence in, the report of the Standing Committee on Banking and Commerce on Bill 83, an Act to Assist Agriculture in the Prairie Provinces.

He said: The committee has made two minor amendments to the Bill. The first was suggested by the Law Clerk of the Senate and the Minister of Agriculture, and the second by the Minister of Agriculture.

The motion was agreed to.

THIRD READING

Hon. Mr. MARSHALL moved the third reading of the Bill.

Right Hon. ARTHUR MEIGHEN: Honourable members, I desire to make a few remarks on the Bill at this stage. I make them not in the hope of defeating the measure, but because of my desire to put on record my views as to, first, the constitutionality of the Bill, and second, and far more important, the general tendency of legislation of this kind, of which this is perhaps the most conspicuous instance we have ever had.

As respects the power of Parliament to pass the measure, I draw attention to the fact that this is in reality a crop insurance scheme. It is not a taxation measure at all. There is collection of money under it, but not for the general purposes of the Dominion, an aim which must characterize taxation. In the committee the Minister sought to defend the

constitutionality of this Bill on the ground that Parliament may adopt any system of taxation it chooses. I think the words he used were, "It can adopt any mode or system." But the taxation must be a valid taxation and not merely a collection of money for an ultra vires purpose. The collection of money in the instance of this Bill is intended to provide an insurance fund for the purpose of recouping, or partially recouping, those who suffer from crop failure. Indeed, the scheme of this measure does not even call for contribution by the Dominion, as did the social insurance legislation recently declared invalid. The scheme contemplates that all payments will come from individuals. It may be that because of wrong calculations supporting the financial plan of this measure, the Dominion will have to contribute. In my opinion it will, and very heavily. But the general nature of the Bill does not contemplate that. It is an insurance measure through and through. Its taxation feature—if, indeed, it can be so described, which I for my part deny—is subsidiary and incidental. The whole general plan is an insurance plan. Therefore it is distinctly ultra vires, under the decision of a year ago.

It is also ultra vires under the decisions in the Board of Commerce case, the Snyder case and the Marketing Act case. Further, it would look to me to be such a Bill as will very likely be challenged, because indisputably it would compel individuals over large areas to contribute money for which they would get nothing back. I question the wisdom of this.

Were it not for the character of judgments we have had, of which the last is by far the most appalling example in this special line, this measure might be soundly based on the peace, order and good government section of the British North America Act. Unfortunately it cannot now be so based. Its legality cannot rest upon the Dominion's jurisdiction in agriculture, because it does not deal with agriculture. When agricultural products are severed from the soil and processed, or even severed without being processed, they become articles of commerce. Nor can the measure be justified on the ground of our trade and commerce jurisdiction, because it has nothing to do with trade and commerce.

When the social insurance legislation was before Parliament vigorous efforts were made to convince the country that it was ultra vires. I did not think it was. It was not ultra vires under the Board of Commerce decision, as this one is; and it could not have been ultra vires under the Marketing Act decision, because that decision had not then

Hon. Mr. HAIG.