

## Income Tax Act

would also, in effect, suspend rule 63 for the purpose of doing so. That is the problem that I wish to present to the minister for consideration.

**Right Hon. J. G. Diefenbaker (Prime Minister):** I do not wish to reiterate what has already been said by the Minister of Finance (Mr. Fleming), except to say it has always been very clear as a matter of constitutional practice that the other place shall not interfere with supply, that money bills shall not originate in that body or be amended by that body. That principle is asserted in the motion made by the Minister of Finance today, and the waiver is apparent in the words which are used in the motion:

That the said amendments be now read the second time and concurred in; but that this house, while disapproving of any infraction of its privileges or rights by the other house, in this case waives its claims to insist upon such rights and privileges, but the waiver of said rights and privileges is not to be drawn into a precedent.

I think the wording of the motion actually has the effect which Your Honour had in mind when you pointed out the situation resulting from the effect of section 63 of the rules. Throughout the years this has been the means whereby this particular rule or section has been waived on the part of the House of Commons.

There are a number of examples—not very many—in which a similar course has been followed. Mention was made a moment ago of the case in 1917, the ruling of the Speaker, resuming an adjourned debate on the proposed motion of Sir Thomas White for the concurrence in amendments made by the Senate to Bill No. 117, an act to authorize the levying of a war tax upon certain incomes as reported on September 15 of that year. It was resumed from Friday, September 7, on which date Sir Wilfrid Laurier in the clearest and most unequivocal language pointed out that this right of the House of Commons should not be in any way circumvented by the other place. The Speaker then made a ruling which, with the leave of the house, I am going to read:

On a previous occasion when this motion was under consideration, two points of order were taken by the hon. the leader of the opposition, (1) that the Senate has no power to amend a money bill, and, (2) if the Senate makes such an amendment, in view of rule 78, the house is bound to insist on its privileges and reject the amendment.

As to the first point, it is beyond question that, in view of section 53 of the British North America Act, bills appropriating any part of the public revenue or for imposing any tax or impost must originate in the House of Commons; and there is no doubt that the Senate has neither power to increase the tax or impost nor to change the incidence of the burden of any such tax or impost in any such bill originating in this house; but the question whether the Senate can make such amendments as have been made in the bill now under

consideration is a point of constitutional law in respect to which it would I think be improper for me to undertake to give an official decision. Matters of such high constitutional import are for the house and not for your speaker to determine.

In that connection, may I say that the declaration there represents the constitutional position. I will continue to read from this ruling:

With respect to the second point, viz., that rule 78 prevents the house from entertaining the present motion, while this rule is an affirmation of what this house considers its powers and prerogatives, there is nothing contained in it or any of our rules which prevents this house from adopting as its own, amendments such as this now under consideration.

I point that out to you, sir, because I think it answers the point of order which you have drawn to the attention of the house. Continuing the quotation:

In the year 1874, amendments of the Senate to a bill originating in this house were concurred in with the reservation that such action was not to be construed as a waiver of its rules and privileges. While the action of this house in the year 1874 was with respect to a bill dealing with dominion lands, and the present bill deals with taxation, in my judgment the principle involved as to the authority of this house to waive under stated conditions its rights and privileges is the same.

I think, sir, with great respect, that this covers the particular matter that you directed to the attention of the house.

**Mr. Benidickson:** Could I ask the Prime Minister a question? He did not argue specifically on the point that perhaps, as suggested by the Speaker, this would require unanimous consent.

**Mr. Diefenbaker:** I am not going into that at the moment. The question of unanimous consent was another portion of the suggested argument advanced by the Speaker. I was dealing, first, with the question as to whether or not there could now be a waiver by the means adopted in the motion put forward by the Minister of Finance. And then the Speaker, in 1917, went on to say:

After careful consideration, I am of the opinion that the motion of the Minister of Finance is in order, but should it be accepted by this house I shall give directions to the clerk to make a special entry in the *Journals* of the house to the effect that this house, while disapproving of any infraction of its privileges or rights by the other house, in this case waives its claims to insist upon such rights and privileges, but that the waiver of the said rights and privileges in this case is not to be drawn into a precedent.

I point out, sir, that the wording is much the same in the motion put forward by my hon. friend the Minister of Finance. At this point, Sir Wilfrid Laurier said:

I have nothing to say as to your ruling, sir, but I would suggest that, instead of the caveat proceeding from the Chair, it should be part of the motion itself.