

Excise Tax Act Amendment

Mr. JOHNSTON: What happened to Charles I?

Mr. DIEFENBAKER: History shows that he lost his kingly head, and that may not be out of the way when it comes to the head of the present administration.

Speaking seriously I believe that no more brazen abuse of parliament has ever taken place in our country than the action of the minister on November 17. He cannot justify it. First, he tried to justify it by telling the hon. member for Moose Jaw that there was no order in council. Then, at page 1540 of *Hansard* the hon. member for Moose Jaw said:

On November 18 last he imposed by order in council, or he applied by a notice of some kind, a tax of 25 per cent on a long list of commodities.

To which the Minister of Finance replied: No order in council; no taxes yet imposed.

What that answer means I do not know, because hundreds of thousands of dollars of taxation have been imposed and collected from the Canadian people since that day. I now go back to history. Some may say: of what interest is history at this time? To those who say that, and I hope the minister does not, let me say that the right hon. leader of the government in the past has quoted history, but never in the past has he had an opportunity to deal with so flagrant a misuse of the powers of the executive in this country as in this case. I am not going to quote from *Magna Carta* except in one particular:

No scutage nor aid shall be imposed in our kingdom, unless by the common council of our kingdom.

There were exceptions then, but I do not think the government of this day comes within those exceptions, which were:

... excepting to redeem our persons, to make our eldest son a knight, and once to marry our eldest daughter, and not for these, unless a reasonable aid shall be demanded.

The government's action obviously does not come within those exceptions. Coming down now to the time of Henry VIII, I find in "British Financial Administration," at page 266, the following:

The struggle of the house to control the public purse has been one to control the power of the crown to impose taxation rather than the power to expend money.

All of its efforts were directed to the establishment of the principle that no new burden could be imposed upon the people without its consent.

Then Davenport on "Parliament and the Taxpayer" clearly sets out that no parliament not sitting can delegate to anyone the author-

[Mr. Abbott.]

ity to impose taxation or to collect taxation. I could give numerous quotations in that regard.

The minister quite frankly admits now that it has never been done since 1628 at the time of the imposition of ship money.

Finally, during the period of Cromwell, Cromwell tried it once and never tried it again. There was a case tried about that time, namely, the Bates' case, which again sets forth the principle that taxation cannot be imposed when parliament is not in session. I refer to Prothero's "Statutes and Constitutional Documents 1558-1625":

I hold them all in one degree . . . without the subject's free and voluntary assent, and that in parliament.

There can be no imposition of taxation except in parliament.

Then again, because the whole history of our times consists in the right of parliament to deny the executive the opportunity to impose taxation when parliament is not in session the government has used the emergency doctrine, and is using it today to destroy the constitutional rights of the province. It builds up in this country a centralized authorized which finally has its culmination in the action of a minister of the crown doing what the Minister of Finance did on this occasion. I refer now to Morgan on "The History of Parliamentary Taxation in England" because I want to give the complete picture. At page 288 this is said:

The statutes of the realm provided in most emphatic language that no tax should be levied on the subject without the consent of parliament.

I know what my hon. friend said the other day. He said we are doing the same thing as is done each year when the budget is introduced. I shall answer that in a moment. The Bill of Rights of 1689 points out that it is illegal for the imposition of any taxation by the executive or by the king when parliament is not in session. That principle is repeated over and over again. E. H. Young in his book "The System of National Finance", recognized everywhere as an authority on the subject says this at page 50:

Before a penny can be extracted by the state from the pocket of a taxpayer or a penny spent or a pennyworth of liability incurred, a law must be passed to authorize it. . . . The principle has the most distinguished origin; it is one of the few actually rooted in *Magna Carta*, out of the many which are traditionally supposed to be.

A little later on he says this:

Magna Carta and the Bill of Rights leave no room for any confused idea that the crown has any shred of prerogative to impose, increase, or reduce taxation, or to alter its incidence,