

Mr. Hees: That's our boys.

• (2:20 p.m.)

Mr. Baldwin: The power of this House to proceed by way of impeachment is embodied in the British North America Act, in statutes of this Parliament and in the Standing Orders of the House. The preamble to the British North America Act provided that Canada shall have a constitution similar in principle to that of the United Kingdom. Section 18, as amended by the Imperial Act of 1875, provided that the privileges, immunities and powers of the Senate and House of Commons are as defined by act of the Parliament of Canada but are not to exceed those of the Commons House of Parliament of the United Kingdom. Section 4(a) of the Senate and House of Commons Act, pursuant to that constitutional provision, states that the privileges, immunities and powers of the Senate and House of Commons are those of the United Kingdom Commons of 1867. Standing Order 1 of this House states that, in all unprovided cases, the usages and customs of the United Kingdom House of Commons apply as applicable.

I have here a very ancient volume, *The Rules of the House of Commons as of 1912*. The first Standing Order, which is worded somewhat differently, says:

In all cases not provided for hereinafter or by sessional or other orders, the rules, usages and forms of proceeding of the House of Commons of the United Kingdom of Great Britain and Ireland in force on the first day of July, 1867, shall be followed.

I believe I am correct in saying that this House and this Parliament have done nothing to remove from the members of the House the right to proceed by way of impeachment. It is a right which did exist, which has not been taken away and one which, modified by the circumstances and conditions of today, is a right and a privilege of this House to be exercised when circumstances warrant. The concept behind this power is the right of Parliament to control and punish the use, misuse and abuse of power by persons to whom Parliament has entrusted political or administrative authority. The procedural remedy used to enforce this control is the power to impeach.

Over the centuries the power of impeachment has been refined by statute and in some cases rendered dormant by the provision of alternative remedies. Dormant it may be, but it has not been extinguished. I have here the most recent parliamentary dictionary, *Abraham and Hawtley*. It contains a definition of impeachment on page 113. I shall not take time to read it. I simply say it is placed before people involved and interested in parliamentary matters, and nowhere does it suggest that this particular right has been extinguished. In fact, illustrations are given of cases in 1816 and 1848 where motions were moved revolving around a question of impeachment.

I draw to your attention, Mr. Speaker, the fact that as recently as 1959, according to a volume of the memoirs of Harold Macmillan—I think it is in the third volume—a debate took place in the House of Commons in 1959 relating to a request by motion that the House approve the Anglo-Egyptian financial settlement following the Suez Canal crisis and the Leader of the Opposition, Hugh Gaitskell—I think this appears on page 641—made a very interesting speech. It was a good debate and at the close

Withholding of Grain Payments

of the proceedings the Leader of the Opposition called for the impeachment of the Prime Minister.

Some hon. Members: Shame!

Mr. Baldwin: I mention this to Your Honour so you will realize that even within so short a period as 12 years ago consideration was given by the United Kingdom House to impeachment as a valid means of punishing those who occupy high places.

In the United Kingdom there have been certain alternatives to the use of impeachment. By their Standing Order 9, which is the equivalent of our Standing Order 26, after debate upon an urgent and pressing matter the Commons could find that there was a prima facie case against a high official of abuse of his power and a select committee would be appointed to inquire into the matter. Because this proved susceptible to political expediency, the United Kingdom passed the Tribunal of Inquiry Act of 1921 which provides that where there is a matter of urgent and pressing importance there can be a resolution of both Houses for the appointment of a committee. We have no equivalent procedure. In any event, it was not a procedure to extinguish the remedy of impeachment but was an alternative or additional power which could be exercised.

In Canada this House has never had that alternative. Standing Order 26 operates in a vacuum. There is debate on the motion to adjourn to discuss an urgent and pressing matter, but there is no provision, under the interpretation that has been given by our Speakers, to conclude with a motion to appoint a select committee to investigate, make findings and recommendations. I think there is no question that that is what is accepted. Under these conditions, I submit to Your Honour that the onus is upon those who would argue the contrary to convince Your Honour and the House that there is not still present in the House, as there ought to be, the right to make a motion to impeach. To those who suggest otherwise, who suggest that the right is no longer valid, I point out that all of the rules, cases and statutes to which I have referred suggest that this is a right imported into Canada and into this House of Commons, and until extinguished by specific act it is a right which in extraordinary cases should and can be exercised.

Why is it that this right has not been used in recent years either here or in the United Kingdom? I think the answer is very simple.

Mr. Stanfield: We have never had a government like this before.

Mr. Baldwin: Yes, as my leader says, we have never had a government like this before, and that is part of the argument I propose to develop.

After the reform act of the United Kingdom and following upon responsible government in this country, for a number of years we had a situation where certain wholesome restraints were capable of being exercised against the executive. I shall have a later opportunity if and when Your Honour grants the motion to argue that this government is the worst offender, but there has been a tremendous and fantastic growth on the part of the executive, perhaps required by the conditions of the society in which we live. Nevertheless, I would suggest to Your Honour