counsel involved were among the most eminent of men who ever clapped wig on head and strode into English courtrooms to argue points of law.

• (2130)

It is also fascinating because one lone Englishman asserted principles for all of us against all the might of government and all the best legal brains the Bank of England and the government of that day could produce. From reading the case it sounds as though that lone Englishman, Mr. Bowles, had some legal training but maybe he found it all in the museum or went somewhere to get his law. Anyway, he stood off all the legal forces arrayed against him.

I will now proceed to what the case was all about. I am going to spend a little time on it. It was so well decided that the Parliament of England settled the question by passing a provisional act, the Provisional Collection of Tax Act. This is something we do not have in Canada. It enables the English government to do with estates what the Canadian government is now attempting to do. It was to cure the decision of the Bowles case. They could get away with it in England and in legal standing; we in Canada cannot because we do not have that corrective action.

I will be as brief as I can but I want to make the record complete, if only to tell my grandchildren that I stood in the line of those who thought it was all right that Charles I was separated from his head. I hope I can get others in parliament to share my interest and concern in this matter. After the next election perhaps it will be found that a great number of the public share that particular concern. I quote:

On April 2, 1912, the Committee of the House of Commons for Ways and Means passed a resolution approving of the imposition, for the financial year commencing April 6, 1912, of income tax at the rate of 1s. 2d. in the pound, and this resolution was reported to and adopted by the House of Commons on June 24, 1912.

The dividends on the stock were payable on January 1 and July 1, and on June 26 the plaintiff issued the writ of summons in the present action against the defendants, the Governor and Company of the Bank of England—

Part of his claim was:

An injunction restraining the defendants, their servants or agents, from deducting, by way of income tax or otherwise, any sum whatsoever from the dividend . . . payable to the plaintiff on July 1, 1912, in respect of . . . Irish Land Stock, of which he is the registered owner—

He also asked for—

—a declaration that the defendants, their servants or agents, are not entitled to deduct, by way of income tax or otherwise, any sum whatsoever from the dividend—

All this was done in the face of a resolution that had been passed by a committee of the House of Commons. On June 28, 1912, the plaintiff added another arrow to his bow, or quiver. He asked for—

—"a declaration that the defendants, their servants or agents are not entitled to deduct, by way of income tax, any sum whatsoever from any dividend or interest payable by them upon the public funds or the said public stock before such tax is actually imposed by Act of Parliament"—

This is very germane to the point I am now making. All this is to be found at pages 58 and 59 of the report in the

[Mr. McCleave.]

Chancery Division. On July 1 the Bank of England paid Mr. Bowles his dividend less a certain amount of money. That certain amount of money for income tax was paid into court. The matter then got into the law courts where, as I said, the plaintiff, Mr. Bowles, argued his case in person. The Bank of England had Romer, who was a distinguished King's Counsel of the day, and S. A. T. Rowlatt who later became a judge of the high court. There is a great quotation from the Magna Carta right down to the laws that existed in 1912. At one point Romer, the distinguished counsel for the bank, said rather plaintively:

The Bank is placed in the awkward position of being sued by Mr. Bowles if it deducts the tax, and of being sued by the Inland Revenue if it does not.

That was a perfectly true statement of the bank's position. That is found at page 63 of the report. After considerable argument the case was adjourned. When it resumed the plaintiff was back, again without a lawyer. He continued to argue his case. Mr. Romer was there for the Bank of England. Howard Wright, another distinguished commercial lawyer at the time, was there for the Bank of England having replaced Rowlatt who had been appointed to the high court.

The government got into the act at that point. It had Sir Rufus Isaacs, the attorney general, and Sir John Simon, the solicitor general. I think any lawyer in this House will recognize that these were two of the five or six very distinguished lawyers at the English bar in this century. The Crown did not exactly wander in without the best counsel it could obtain in this matter. I quote further from the argument in the case:

The Treasury, when brought to book by the Comptroller of the Issues of the Exchequer, excused itself by alleging a resolution of the House of Commons; but on the question being laid before the law officers of the Crown, then Sir Robert Finlay and Sir Edward Carson, they decided that the Treasury was wrong and its action unlawful; and Mr. Blain, representing the Treasury, on being asked by the chairman of the Public Accounts Committee, "I suppose you will agree that there was an infraction of the statute?" replied, "After the law officers' opinion we certainly must agree as to that. Of course the Treasury would feel all the more bounded in any future case that nothing of the sort should happen, so far as they could prevent it":

With two more quotations the foundation of my case will be laid on this particular matter. It was stated by the plaintiff in the argument in his brief, and these briefs are very extensively quoted:

The principle that the subject cannot be taxed without consent, or otherwise than by law, is as old as history. It was affirmed by the laws of King Alfred. It was adopted and confirmed even by the laws of William the Conqueror. All the earlier great jurists have asserted it, from Bracton in the Thirteenth century to Sir John Fortescue in the fifteenth century, who in his De Laudibus Legum Angliae says (see translation by Robert Mulcaster, ed. 1567, c. 9, pp. 25, 26)—

I hope *Hansard* will take the spelling found at page 72 of the Chancery Division report; it is quaint.

"The Kynge of England cannot alter nor change the lawes of his royalme at his pleasure"; he can neither change lawes without the consent of his subjects, nor yet charge them with straunge impositions against their wylles." So, too, say the later authorities, from Selden to Hallam, and also the statutes.