started an action against the Bank of England on the part of the subject, can be relied on by the crown as justifying any infringement of its provisions. It follows that, with regard to the powers of the crown to levy taxation, no resolution, either of the committee for ways and means or of the house itself has any legal effect whatsoever. Such resolutions are necessitated by a parliamentary procedure adopted with a view to the protection of the subject against the hasty imposition of taxes, and it would be strange to find them relied on as justifying the crown in levying the tax before such tax is actually imposed by act of parliament.

before July 1, claiming an injunction to prevent the bank from paying over the money. The bank finally paid the money into court. Here is the judgment. I may say the plaintiff pleaded his own case. I presume he was a barrister because it was a most learned argument that he put forward. I have some quotations from his argument. The hon. member for Lake Centre has already quoted Magna Carta. The plaintiff quoted Magna Carta. He quoted the Petition of Right. He quoted especially the Bill of Rights, upon which finally the question was decided, as I shall show later on when quoting the judgment of His Lordship Mr. Justice Parker. The attorney general was made a party or was given notice, and he intervened. His argument was the same as that which the minister gives to the house today, that it is a practice and has been a practice in all these years. The plaintiff, in refuting that argument, says this:

> The court is invited to believe that a resolution sufficed, that there need be no act, that vast powers of taxation have sprung from the mere opinion or resolution of a House of Commons, and that the taxing power has passed from parliament into the hand of the Department of Inland Revenue and the Bank of England. Resolutions in any case are unknown to this court. The only taxing power in this realm resides in parliament. The only authority to levy any tax, whether by deduction or otherwise, is to be found in an act of parliament. Where there is no act there is no taxing authority.
>
> Even if such a practice had existed as alleged in the defence ever since the imposition of income tax by the income tax act, 1842, that would not justify it. It cannot be pretended that the practice has grown into a custom which this court will recognize. Even if it has grown into a custom, it is a bad custom, to which the maxim *"Malus usus abolendus est"* applies.
>
> 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.

Then Mr. Justice Parker delivers his judgment, and I quote from part of this as follows:

> This question may be stated as follows: Does a resolution of the committee of the House of Commons for ways and means, either alone or when adopted by the house, authorize the crown to levy on the subject an income tax assented to by such resolution but not yet imposed by act of parliament? Apart from the effect of certain provisions contained in the statutes relating to the collection of income tax, to which I shall presently refer, this question can, in my opinion, only be answered in the negative. By the statute 1 William and Mary, usually known as the Bill of Rights, it was finally settled that there could be no taxation in this country except under authority of an act of parliament. The Bill of Rights still remains unrepealed, and no practice or custom however prolonged, or however acquiesced in

I may say that this case did not go to appeal. No doubt the British government at the time thought, and rightly so, that this was good law and that there would be no use in appealing. So promptly they passed an act, known as the provisional collection of taxes act, 3 George V, chapter 3. In this act they are making legal the collection of taxes after the chancellor of the exchequer introduces his resolutions. But mind you, it applies only to an increase in an already existing tax or to the continuation of a tax that had been collected under a previous statute. It does not apply to any absolutely new tax as, for instance, the first portion of the resolution now before the committee applies to a tax which had not been applied before. I should like to read part of this statute:

> Where a resolution is passed by the committee of ways and means of the House of Commons . . . providing for the variation of any existing tax, or for the renewal for a further period of any tax in force or imposed during the previous financial year . . . the resolution shall, for the period limited by this section . . . have statutory effect as if contained in an act of parliament. . . .

We have no such statutory provision in Canada, and surely no one will contend that this British statute has any application here. Even if it did, the action of the government in imposing the tax last November would not be justified under such a law. The act goes further and says:

> The resolution shall cease to have statutory effect if it is not agreed to . . . by the house within the next ten days . . . and also if a bill varying or renewing the tax is not read a second time by the house within the next twenty days on which the house sits after the resolution is agreed to. . . .

And there is this further provision:

> The resolution shall cease to have statutory effect if parliament is dissolved or prorogued . . . or the resolution is rejected by the house. . . .

Then follows this provision:

> Where the resolution so ceases to have statutory effect . . . any money paid in pursuance of the resolution shall be repaid or made good and any deduction made in pursuance of the resolution shall be deemed to be an unauthorized deduction. . . .