

*Excise Tax Act Amendment*

The CHAIRMAN: Order. The hon. member is not raising a question of privilege. He merely wishes to make a correction in what the hon. member for Halton (Mr. Cleaver) has said, and he will have an opportunity for doing that later on in the debate. I would refer hon. members to Beauchesne, third edition, citation 193, which reads:

Members often raise so-called "questions of privilege" on matters which should be dealt with as personal explanations or corrections, either in the debates or the proceedings of the house.

I would remind hon. members who wish to correct something that has been said that they should do so, not as a question of privilege but later on when they have an opportunity.

Mr. DIEFENBAKER: I raised the question in the fall session.

Mr. FLEMING: I did also.

Mr. CLEAVER: In case hon. members would like to check these authorities, I am pleased to inform them that there is no need to plough through dozens of volumes of old references and cases in order to find the law. If hon. members will refer to Halsbury's Laws of England, second edition, volume 6, page 452, they will find there a clear exposition of the law. They will find, too, notes on the mediaeval cases cited by the hon. member for Lake Centre as well as on the recent Bowles case cited by the hon. member for Kindersley.

Mr. FLEMING: Read it.

Mr. CLEAVER: Since we are in complete agreement on the law and I do not think anyone will question that, let us now look at the facts. What actually did happen? What did the minister do? Did he attempt to take from parliament the right to impose taxation? Surely the best answer to all these questions is to read what the minister did say. I suggest to the committee that they should refrain from childish repetition of statements which are not factually correct, but should be content to read from the minister's own statement. This is what he said on November 17:

The government will ask parliament to place an excise tax of 25 per cent on a wide range of these durable consumer goods, the purchase of which can normally be postponed.

Did the minister say he was going to impose taxation? Did he say the government was going to impose taxation? No. He said he was going to ask parliament to place an excise tax.

Mr. FLEMING: What did he do in the meantime?

[Mr. Diefenbaker.]

Mr. CLEAVER: I shall come to that. I suggest to my hon. friends that they are only deluding themselves by repeating childish misstatements of fact and by keeping on saying to this committee that either the government or the minister imposed a tax. Nothing of the kind was done. The minister simply gave notice to the public of Canada that he would ask the government to impose a tax and he also gave notice that he would ask that that tax should be retroactive.

I think we are coming now to the point where we reach our real place of disagreement. What is constitutionally wrong in a minister of the crown telling the citizens of the country what he plans to ask parliament to do? I challenge any member of the opposition to tell me. The hon. member for Lake Centre can browse in the library from now to the end of the session, but I say he will not find any authority which states that it is constitutionally incorrect for a minister of the crown to advise the people of the country what he intends to recommend to parliament.

Mr. MacNICOL: The tax is being collected now.

Mr. ROWE: He has already taken the money.

Mr. CLEAVER: I am coming to that.

The CHAIRMAN: The hon. member for Halton is presenting a legal argument in support of his contention and I think hon. members should allow him to do so without interruption.

Mr. CLEAVER: My hon. friends take exception to the fact that in making his announcement the minister also announced that he would ask parliament to make the effect of this measure retroactive. No member of the opposition contends that parliament has not the right to pass retroactive taxation measures. It is done every year in connection with the budget.

Mr. KNOWLES: Is that constitutional?

Mr. CLEAVER: I suggest that anyone who says there is anything constitutionally wrong with what has been done is driven to the point where he must argue that parliament has no right to pass a measure imposing taxation retroactively. There is no such authority; it is done every year. I come now to the remaining point raised by the opposition. It has been contended that what has been done is an insult to parliament.

Some hon. MEMBERS: Hear, hear.

Mr. FLEMING: Now you are bringing on the facts.