

Withholding of Grain Payments

that this growth, coupled with our decreasing power and opportunities for exercising that restraint which this House possesses, should make us alert and vigilant to find ingenious ways of controlling a capricious executive. I therefore suggest I am entitled to make this motion and to urge upon Your Honour that this argument regarding the use of the remedy of impeachment is one that should be considered.

I have almost completed what I want to say, Mr. Speaker, but I should like to put my final argument on as high a plane as I can. It is this. I would commence by citing a remark made by Lord Brougham referred to in the book I mentioned on federal impeachments by Alex Simpson. Lord Brougham made this appropriate comment, that the right of impeachment was so large and so capacious that he could place no bounds on it either in space or time. He went on:

The House of Commons might impeach for whatever was indictable but they might also impeach in cases where no indictment could be found. . . . In short, this maxim has been laid down as irrefragable and whatever mischief is done, and no remedy could otherwise be obtained, it is competent for Parliament to impeach.

• (2:30 p.m.)

This is supported in a Canadian publication by Alpheus Todd. In his book, "Practices and Privileges" of the House of Commons, this is stated at the beginning of chapter 18:

The High Court of Parliament is the supreme court of the Kingdom, not only for making, but also for the execution of the laws by the trial of great offenders . . . by a method of parliamentary impeachment. This custom of impeachment, says Blackstone, has a peculiar propriety in our constitution. It may happen that a subject entrusted with the administration of public affairs may infringe the rights of the people and be guilty of such crimes as the ordinary magistrates either dare not or cannot punish.

On the next page it is stated:

It is absolutely necessary for the preservation of our liberties and the safety of our constitution that the Commons should possess this extraordinary power of bringing great offenders to justice.

Mr. Speaker, I do not think we can forget that over the course of the last 15 or 20 years, particularly in the last eight or nine years in Canada, there has been this fantastic increase in the powers of the executive, with the result that in the parliamentary structure, through changes in rules and practices, it has become increasingly difficult to deal with an arbitrary and arrogant executive.

If there is any doubt about the right of the executive to be bound by the law, I would refer Your Honour to a judgment of the Supreme Court of British Columbia by Mr. Justice Norris, dealing with the case of Mr. Gaglardi, a minister of the Crown in that province. He said:

It is the duty of members of the executive to obey the law, not to disregard it, and they must ascertain the law in order to obey it. The matters of the practice and policy of the government or any department thereof cannot override the duty of obedience to the law, nor will it avail a minister of the Crown to say that he acted on legal advice when it turns out to be wrong.

This judgment is not necessarily binding on Parliament but I adopt and concur in those words, and I say they are the words which Your Honour should have in mind. I suggest that these conclusions follow: This House possesses and enjoys the power to impeach high officials of government in respect of their conduct in office; the House as a whole has no alternative procedural remedy to

[Mr. Baldwin.]

the power of impeachment although the government possesses the preliminary aspects of a substitute power in its control of the Inquiries Act; the House, possessing this right and having no alternative remedy, cannot be deprived of the exercise of this right and it is for the House to determine the incidental procedures and orders necessary to its exercise.

Finally, I suggest that it is the crowning glory of the parliamentary system that it has this flexibility, that wherever there is a wrong there must be a remedy, and wherever there is a difficulty there must be some means found by this Parliament to deal with it. I suggest it is a duty falling upon every member of this House and upon the Chair, who is the guardian of the privileges, duties and obligations of the House, to be ingenious to assure our supremacy, and that the writ of this highest court of the land must be made at all times to run above even the views of the Prime Minister or cabinet ministers.

The Prime Minister has said, as have others, that we are entering an era of contest, a contest between the rule of order and reason and the rule of violence in the streets. If those who are sitting in authority above us refuse to obey the rule of order, what hope is there for us to win this battle?

Some hon. Members: Hear, hear!

Hon. Allan J. MacEachen (President of the Privy Council): Mr. Speaker, I listened with a great deal of interest to the long statement made by the hon. member on the other side of the House on what he described as the process of impeachment in the Canadian House of Commons. In spite of the long statement and the call to you and to the House to respond, the hon. member has not made clear yet what that process is, what an article of impeachment is and, if an article of impeachment is framed—whatever that is—what you do with it, and if you get it and it is carried what happens to the person who is impeached.

Some hon. Members: Oh, oh!

Mr. MacEachen: I do not really know from what the hon. gentleman said whether an impeachment is a benefit or an injury to an individual. It is just a word that has obviously appealed to the imagination of the hon. member who ingeniously decided to throw some dust in our eyes at the very time when the House is being asked to pass the agricultural stabilization bill which will provide for the payments complained about by my hon. friend and will in fact provide those payments plus more.

Mr. Baldwin: You are still wrong.

An hon. Member: You missed the main point.

Some hon. Members: Oh, oh!

An hon. Member: Where is your argument and your credibility?

An hon. Member: What credibility?

Mr. MacEachen: Mr. Speaker, I am sure I am getting much more reaction from the House than did my hon. friend.

An hon. Member: You deserve it.