

rather earlier, and not postponed it until this late period, when they knew at that time that a vast amount of revenue was jeopardous. It was only a few weeks ago that he discovered it, and it was no time now to go into a discussion regarding retrospective legislation, when they were already engaged in another discussion. If it is proper in principle it can as well pass five days hence. Let the action of public opinion act upon it. Let us have time to consider whether or no by adopting an *ex post facto* law, we launch a principle that violates every principle of right and wrong, and may alter all the contracts in the country.

Mr. GILBERT was prepared to assist the Government in regard to passing a law for the future; but the consideration of the great principle of passing an *ex post facto* law, making lawful what was before unlawful, would take up a great deal of time in the discussion. The case mentioned by the Attorney General was agreed to by all the parties interested in it. He would suggest to the Attorney General to exclude the *ex post facto* part from the Bill, and only legislate for the future, until they had time to consider whether this retrospective legislation would not take away the rights of parties and lead to a great deal of complaint.

Mr. NEEDHAM said it did not involve a great principle, and the sooner they passed this Bill the better. If they delayed this matter it might cost them trouble, for parties who paid this money might bring an action against the Deputy Treasurer, or the Treasurer who received it, and those officers must be protected, which would cause a great expense to this country. But they say it is not Constitutional to pass an *ex post facto* law, as if there could be any thing in the Constitution against it. There are hundreds of laws in England, and hundreds of laws in our own country that are *ex post facto*. The only thing that can be said is, that it is exceptional legislation, and done only in extreme cases, when the exigencies of the case requires it. If it was unconstitutional it never could be done. This Legislature has the power to pass this Bill, and after they pass it the Bill becomes law and cannot be unconstitutional. If the House is going to pass this Bill to legalize the collection of export duty, it is their duty to do it at once.

Hon. Mr. CUDDEP—If the Government have committed an error in regard to this matter, they are responsible to the people for it. This act does not bind one. They were there to take care of the public interest, that no wrong should be done to the people. A great deal of this money would go into the pockets of the men who shipped the deals, and would be a clear profit to them. That money when paid, was considered to have been paid according to law. No man will pay this export duty now, and if they delayed the passage of this law it would open a door for litigation. He did not wish to get back the money he had paid, but he wished to see this *ex post facto* law passed in order to retain the money in the public chest.

Mr. ANGLIN said his hon. colleague had stated nearly all of what he had intended to say. He was happy to see that some of the members of the opposition were disposed to deal fairly in this case. If they passed this Bill no man could complain that injustice had been done him. A shipper going to ship deals will ask what are the charges, and adding those

charges to the export duty, he will consider what he can afford to give for them. This money does not belong to the shipper. If it belongs to any one but the Province, it belongs to every one that has been concerned in the transaction; and it would be impossible, by any means, to divide that money among them all. This export duty is put on in the place of stumpage. Suppose a man cut logs on your farm without an agreement to pay stumpage. If you could obtain stumpage it would be doing that man no wrong. The law, it appears, is a Revenue Bill, but it is in lieu of stumpage. He had no interest in the matter, but he wished to have it settled. This oversight was very much to be regretted. If the Government were to blame he would take his share, for it was as much his business as it was the business of the President of the Council, or any other member, to look into the matter.

Mr. LINDSAY said it was admitted by a member of the Government that they knew of it in September. Why, then, was not this Bill brought in the first day of the Session. If this question had not been brought up by the hon. mover of the amendment to the Address, it would not have been taken up until the Address had passed. If the Government had said on the first day of the Session that this law had expired, in consequence of being overlooked, and had brought in this Bill then, he would have given them credit for it, for he thought no time should be lost in passing this Bill.

Mr. KERK said it was very evident that every Deputy Treasurer was liable to have an action brought against him for money received as export duty, if they delayed the passage of this Bill, for in many parts of the Province there may be parties who think they are hardly dealt with, and they, discovering that something had been done contrary to law, may bring an action against the officers of the Government to recover their money. The passage of this Bill will not be the cause of any hardship to any individual. A retrospective law to punish a man might be considered a hardship, but this law to continue another law will do injustice to none.

Mr. L. P. W. DESBRISAY said he took a different view in regard to this from any he had heard expressed. He was against any export duty whatever, for it was his opinion that no export duty should be imposed upon lumber shipped in this Province. He had always intended when a Bill came before them to revive that law to oppose it. This country ought not to trammel the exportation of lumber by imposing an export duty at all. It is said that it is in the place of stumpage; we have to pay our \$20 a mile for the ground on which we lumber, besides the export duty. It was very well to hear one side of the story, but he could tell them of men who had shipped lumber for the last four years, and had received half price for it, and he would ask whether it would be a dishonor for those men to take the export duty. The hon. member of the Government may speak of the £1100 he has paid, but he stands in a different position from the lumber merchant. He is a broker, and does not give his eighteen months credit, as other men in the country do; he receives an order from the other side of the Atlantic, and he fills it. That law ought to exempt logs cut on private lands. He would oppose this

law on principle, for there ought to be no export duty. The Government should raise their revenues in some other way than by taxing an article, the property of poor men. The lumbermen toil hard, and use their energies from daylight until dark, and they should be protected in their employment.

Mr. CONNELL said that it was very evident that a different law ought to exist, which would not only be a benefit to the revenue but to the country; but it was no time just now to create difficulties in regard to the matter. A law to collect this export duty should be passed immediately, but more time should be given to this retrospective legislation. A like circumstance occurred, he thought, in 1827, when the Legislature was called together to remedy the defect, and called again five or six weeks after to transact the business of the Session. He then mentioned a case which had occurred some time ago, in which money had been paid by individuals who alleged they had no right to pay it. The controversy went on for some time, but after a calm review of the matter the principal and interest had to be repaid. If, after due consideration, we find we have the right to retain this money, we had better exercise that right; but if it be wrong in principle to do so, then no money consideration should induce us to do it.

Mr. CAIE said the important question was, whether the money which they had paid into the Treasury last year should be refunded or not. He was one of those who had paid into the Treasury \$1200, and he considered he would be acting unfairly to withdraw that money, for it should be put on the roads and bridges. If they got their money back, he would consider it Provincial money, and should appropriate it to that purpose.

Mr. FRASER said he differed from the hon. member from the County of York (Mr. Fisher) in regard to the law, in this matter. He would like to ask the hon. member for the County of Kent, at what time he became aware the law for collecting an export duty on lumber had expired.

Mr. L. P. W. DESBRISAY said he was not aware of it until yesterday evening, when it was brought forward by Mr. Fisher.

Mr. FRASER—Then at the time the hon. member was making his calculations regarding the men he supplied, and the men he purchased lumber from, the export duty entered into his calculations, and if they paid him the money back, it would not be his money, and if he does get it back, it ought to go on the Roads (Mr. Desbrisay.—Let it go as then.)

He would now show that although the principle of retrospective legislation is in many cases injurious, yet that does not come in here at all, where men pay the money. It is only when a man refuses to pay it, or where it subjects the party to a penalty, that it becomes retrospective.

To furnish an analogous case, he quoted D'warris on Statutes, 517:

"An Act of Parliament made to correct an error by omission in a former Statute of the same Session, relates back to the time when the first act passed, and the two must be taken together, as if they were one and the same act, and the first must be read as containing in itself, in words, the amendment applied by the last; therefore goods exported before the second act passed, but only shipped