

Also at page 450, in a remonstrance to the King, in 1641, on his taking notice of Business depending in the House of Commons:—

“ Amongst other privileges of Parliament, they (the Lords and Commons) do, with all dutiful reverence to your Most Excellent Majesty, declare, that it is their ancient and undoubted right, that your Majesty ought not to take notice of any matter in agitation and debate in either of the Houses of Parliament, but by their information or agreement; and that your Majesty ought not to propound any condition, provision, or limitation, to any Bill or Act in debate or preparation in either House of Parliament, or to manifest or declare your consent or dissent, approbation, or dislike of the same, before it be presented to your Majesty in due course of Parliament.”

And again, at page 354:—

“ On the 26th of February, 1757, the King having, in a message to the House of Commons, taken notice of what was said the day before by a member in his place, a special entry is ordered to be made, that this case may not be drawn into precedent, to the infringement of the privileges of the House of Commons.”

This entry is as follows:—

“ The mention made in the message, of an application being made to this House, by a member of the House in his place, was much excepted to in the House; being conceived that it might affect (although not so intended) the privilege of the House, with regard to freedom of speech in their debates and proceedings; and forasmuch as the maintaining of that privilege must ever be of the utmost consequence to the House, the House did direct, that this special entry should be made in the Journal, lest at any time hereafter this case should be endeavoured to be drawn into precedent, to the infringement of so important and essential a claim and right of the House.”

That, the question referred to your Committee arises out of the refusal of His Excellency the Governor to accede to the advice of his Constitutional Advisers to appoint Mr. John Nathaniel Wilson as a member of the Legislative Council. In the memorandum of the Governor, dated 27th October, 1877, placed on the Table of the House by command of His Excellency, on the 31st October, 1877, it is stated in reference to the proposed appointment:—

* * * * “ the Governor is of opinion that it would be undesirable to make it at a time when a vote of want of confidence is pending.

“ If the Government are supported by a majority of the House, the Governor will be happy to accept their advice and appoint Mr. Wilson to the Legislative Council; but, pending the decision of the Assembly, the Governor must decline to make the appointment.”

That your Committee find that modern constitutional usage is strictly in accordance with the principle as illustrated by the precedents above quoted. They are supported in this view by the opinions of the best authorities on the subject, and they would refer to the observations in *Hatsell on Precedents*, vol. II, page 355:—

“ It is highly expedient for the due preservation of the privileges of the separate branches of the Legislature, that neither should encroach upon the other; or interfere in any matter depending before them, so as to preclude, or even influence, that freedom of debate, or of action, which is essential to a free Council.”

And in *May's Treatise on Parliament*, fifth edition, 1863, page 315, it is stated that on the 17th December, 1783, the Commons resolved:—

“ That it is now necessary to declare, that to report any opinion or pretended opinion of His Majesty, upon any Bill or other proceeding depending in either House of Parliament, with a view to influence the votes of the members, is a high crime and misdemeanour, derogatory to the honor of the Crown, a breach of the fundamental privileges of Parliament, and subversive to the constitution of this country.”

That it therefore appears, that the action of His Excellency, in noticing a matter in agitation in the House as the reason for refusing to accede to advice tendered by His Minister is opposed to precedents, and your Committee are of opinion that such action is unconstitutional, and an infringement of the privileges of Parliament.—(*Mr Ballance*.)

Amendment to Mr. Ballance's motion, To omit the last clause, and insert in lieu thereof the words “ That your Committee is therefore of opinion that the action of His Excellency the Governor, in noticing a matter in agitation in the House as the reason for refusing to accede to advice tendered by his Ministers, was an infringement of the privileges of this House.”—(*Mr. Stout*.)

The Hon. Mr. Gisborne, by leave of the Committee, withdrew his motion in favour of that proposed by Mr. Ballance, in order to enable reference to be made to precedents.

Discussion resumed respecting Mr. Ballance's proposed motion, and it was understood, before the Committee retiring for the adjournment, that the Chairman would sketch out a Report.

The Committee then adjourned until 8 o'clock this evening.

The Committee re-assembled at 8 o'clock p.m.

PRESENT:

The Hon. Mr. Speaker in the Chair.

Mr. Ballance,
Hon. Mr. Gisborne,
Mr. Harper,
Mr. Johnston,
Mr. Montgomery,
Mr. Moorhouse,

Mr. Rees,
Mr. Rolleston,
Hon. Mr. Stafford,
Mr. Stout,
Mr. Wakefield,
Mr. Reader Wood.

After the Committee had deliberated, Mr. Ballance, by leave, withdrew his motion.