

Bill through the Colonial Legislature, and are as follows:—

A large extent of land in New Zealand, comprising many millions of acres, is still held by the aboriginal inhabitants, who have never surrendered their title to the Crown, and whose rights were guaranteed to them by the Treaty of Waitangi.

Hitherto the only mode in which such land has been acquired for purposes of colonization has been through the exercise of the Queen's right of pre-emption or exclusive purchase. Land so acquired is subject to the disposal of the General Assembly of New Zealand under the 72nd section of the Constitution Act.

It has been determined to effect a change in this system; to abandon the Crown's right of pre-emption or exclusive purchase; to institute Courts for defining the rights of Natives to their lands according to their own customs; and to permit the Native proprietors to dispose of their land as of common right.

With this view a Bill was introduced into the General Assembly through the House of Representatives in the last session—a copy of which, as finally passed, is herewith.

The Bill as passed by the House of Representatives contained, instead of what is now clause 19, a clause to the following effect:—

Upon the signing and sealing of every certificate by the Governor, or the issue of every Crown grant in exchange for a certificate under the provisions of this Act, there shall be paid to Her Majesty the sum of two shillings and sixpence for every acre of land described in such certificate or grant; and such sum shall be deemed to be part of the land revenue of the province in which such lands are situate, and shall be paid over to the Treasury of such province, subject to the appropriation of the Provincial Council of such province.

The Legislative Council amended the Bill by adding to clause 17 the following proviso:—

But no certificate shall entitle any tribe, community, or person named therein to sell, exchange, or lease for a longer period than seven years, or dispose of any land or interest thereby affected, unless such certificate shall have been indorsed by the Governor and sealed with the Public Seal of the colony as aforesaid, and the amount payable on such indorsement and sealing be duly paid.

The Bill was returned to the House of Representatives so amended. The amendment was accepted by the House of Representatives, and a message to that effect was transmitted to the Legislative Council, without notifying any exception thereto. A resolution, however, was passed, at the same time, in the House of Representatives to the following effect:—

That the amendment of the 17th clause of "The Native Lands Act, 1862," by the Legislative Council is an infringement of the privileges of this House, inasmuch as it assumes to "regulate" the imposition of a fee and the limits within which it is proposed to be levied, contrary to the provisions of the 128th Standing Order and the practice of the Imperial Parliament in such matters.

The Bill, thus amended, was transmitted to the Governor for the signification of Her Majesty's pleasure thereon.

The Governor, under the provisions of the 56th section of the Constitution Act, returned the Bill to the House of Representatives with a message proposing two amendments, a copy of which message is herewith.

The Governor's amendments were adopted by both Houses, and in that shape the Bill finally passed, and now stands.

The question submitted for consideration is, Whether the Legislative Council was warranted in amending the Bill as they did, or whether their amendment was, as the House of Representatives insists, a breach of the privileges of that House?

The general rule practically acted on by the two Chambers as regards money Bills and money

clauses is understood to be analogous to that which governs the two Chambers of the Imperial Legislature, *mutatis mutandis*.

The following Standing Orders have been specially agreed to by both Houses:—

That, with respect to any Bill brought to this House from the Legislative Council, or returned by the Legislative Council to this House with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorized, imposed, appropriated, regulated, varied, or extinguished, this House will not insist on its undoubted privilege in the following cases:—

(1.) When the subject of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences.

(2.) Where such fees are imposed in respect of benefit taken or service rendered under this Act, and in order to the execution of the Act, and are not made payable into the Treasury or Exchequer, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus.

(3.) When such Bill shall be a private Bill for a local or personal Act.

Also, that provisions for giving full effect to the object of such Bills, but which might infringe upon the privileges of the House, ought, if printed in italics, to be treated by the House as forming no part of the Bill, and ought not, if adopted in Committee of Supply, to necessitate the return of such Bill to the Legislative Council as though amendments had been made.

The Legislative Council appointed a Select Committee to consider the question of privilege. The report of the Committee is as follows:—

Report of the Select Committee appointed to consider and report as to the question whether the amendments introduced into the Native Lands Bill by the Legislative Council be a breach of the privileges of the House of Representatives, and, if the Committee shall think fit to do so, then to prepare a case to be submitted for the opinion of the Law Officers of the Crown in England, as a guide to the Council in its future dealings with like questions.

Your Committee have considered the question referred to them. At this late period of the session they can do little more than state their opinion that the question involved is one of the greatest importance as affecting the legislative functions of this Council, particularly as the House of Representatives has passed a resolution on the subject which, if acted on, will bring the two branches of the Legislature into collision.

In the opinion of your Committee the Council has not exceeded its privileges in this matter.

As a guide to the Council in future upon a question of so great importance, your Committee recommend that a case be prepared to be submitted to the Law Officers of the Crown in England, by and under the direction of the Chairman, the case to embody the following material points:—

A copy of the Native Land Bill, in its original and amended state, the Governor's amendments, and the reports of such of the debates as may elucidate the points at issue should accompany the case.

The question to be stated is this: Whether, the House of Representatives having, in a Bill, imposed on a Crown grant, or an instrument in the nature of a Crown grant, a certain tax or duty, it is competent to the Legislative Council to introduce an enactment to the effect that no transaction shall take place under another class of instruments affecting Native lands until such instruments have been practically transmuted into or changed for Crown grants, so, in effect, rendering the latter class of instruments liable to such tax or duty.

HENRY SEWELL.

Committee Room, 13th September, 1863.

In the course of debate two arguments were urged which appeared to have great weight with the Council, one, that, if the present claim of the House of Representatives be admitted, the Legislative Council will be practically excluded from legislating on one of the most important questions, viz., the price of waste land, or, what is virtually the same thing, the taxation on alienation; the other, that, if the House of Representatives could, by imposing a tax or duty on a particular kind of legal instrument, exclude the Legislative Council from all consideration of questions connected with the subject-matter of such instruments, the field of legislation over which the power of the Legislative Council would extend would be greatly and most