

Disagree to the said amendments, for the following reasons, to which they invite the most careful consideration of the Legislative Council:—

It has been generally admitted that, in British colonies in which there are two branches of the Legislature, the legislative functions of the Upper House correspond with those of the House of Lords, while the Lower House exercises the rights and powers of the House of Commons. This analogy is recognized in the Standing Orders of both Houses of the Parliament of Queensland, and in the form of preamble adopted in Bills of Supply, and has hitherto been invariably acted upon.

For centuries the House of Lords has not attempted to exercise its power of amending a Bill for appropriating the public revenue, it being accepted as an axiom of constitutional government that the right of taxation and of controlling the expenditure of public money rests entirely with the Representative House, or, as it is sometimes expressed, that there can be no taxation without representation.

The attention of the Legislative Council is invited to the opinion given in 1872 by the Attorney-General and Solicitor-General of England (Sir J. D. Coleridge and Sir G. Jessel), when the question of the right of the Legislative Council of New Zealand to amend a money Bill was formally submitted to them by the Legislature of that colony. The Constitution Act of New Zealand (15 and 16 Vict., c. 72) provides that money Bills must be recommended by the Governor to the House of Representatives, but does not formally deny to the Legislative Council (which is nominated by the Crown) the right to amend such Bills. The Law Officers were nevertheless of opinion that the Council were not, constitutionally, justified in amending a money Bill, and they stated that this conclusion did not depend upon and was not affected by the circumstance that, by an Act of Parliament, the two Houses of the Legislature had conferred upon themselves the privileges of the House of Commons so far as they were consistent with the Constitution Act of the colony.

The Legislative Assembly believe that no instance can be found in the history of constitutional government in which a nominated Council have attempted to amend an Appropriation Bill. Questions have often arisen whether a particular Bill which it was proposed to amend properly fell within the category of money Bills. But the very fact of such a question having arisen shows that the principle for which the Legislative Assembly are now contending has been taken as admitted.

The Legislative Assembly maintain, and have always maintained, that (in the words of the resolution of the House of Commons of 3rd July, 1678) all aids and supplies to Her Majesty in Parliament are the sole gift of this House, and that it is their undoubted and sole right to direct, limit, and appoint, in Bills of aid and supply, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the Legislative Council.

For these reasons it is manifestly impossible for the Legislative Assembly to agree to the amendments of the Legislative Council in this Bill. The ordinary course to adopt, under these circumstances, would be to lay the Bill aside. The Legislative Assembly have, however, refrained from taking this extreme course at present, in the belief that the Legislative Council, not having exercised their undoubted power to reject the Bill altogether, do not desire to cause the serious injury to the public service and to the welfare of the colony which would inevitably result from a refusal to sanction the necessary expenditure for carrying on the government of the colony, and in the confident hope that, under the circumstances, the Legislative Council will not insist on their amendments.

9. On the same day the Legislative Council again returned the Bill to the Legislative Assembly, with the following message:—

The Legislative Council, having had under consideration the message of the Legislative Assembly of this day's date, relative to the amendments made by the Legislative Council in the Appropriation Bill of 1885-86, No. 2, beg now to intimate that they insist on their amendments in the said Bill—

Because the Council neither arrogate to themselves the position of being a reflex of the House of Lords, nor recognize the Legislative Assembly as holding the same relative position to the House of Commons:

The Joint Standing Orders only apply to matters of form connected with the internal management of the two Houses, and do not affect constitutional questions:

Because it does not appear that occasion has arisen to require that the House of Lords should exercise its powers of amending a Bill for appropriating the public revenue, and therefore the present case is not analogous: the right is admitted, though it may not have been exercised:

Because the case of the Legislature of New Zealand

2—A. 8.

is dissimilar to that now under consideration, inasmuch as the Constitution Act of New Zealand differs materially from that of Queensland, and the question submitted did not arise under the Constitution Act, but on the interpretation of a Parliamentary Privileges Act. If no instance can be found in the history of constitutional government in which a nominated Council has attempted to amend an Appropriation Bill, it is because no similar case has ever arisen:

Because in the amendment of all Bills the Constitution Act of 1867 confers on the Legislative Council powers co-ordinate with those of the Legislative Assembly; and the annexing of any clause to a Bill of supply the matter of which is foreign to and different from the matter of said Bill of supply is unparliamentary, and tends to the destruction of constitutional government; and the item which includes the payment of members' expenses is of the nature of a "task."

For the foregoing reasons, the Council insist on their amendments, leaving the matter in the hands of the Legislative Assembly.

10. On the 13th of November the Legislative Assembly, by message, proposed the appointment of a Joint Select Committee of both Houses "to consider the present condition of public business, in consequence of no supplies having been granted to Her Majesty for the service of the current financial year." Such Committee was appointed on the same day, and on the 17th of November brought up their report, recommending, amongst other things,—

That, for the purpose of obtaining an opinion as to the relative rights and powers of both Houses with respect to money Bills, a case be prepared, and that a joint Address of both Houses be presented to Her Majesty, praying Her Majesty to be graciously pleased to refer such case for the opinion of Her Majesty's Most Honourable Privy Council.

11. The following Acts and documents are to be deemed to form part of this case:—

- (1.) The Imperial Act, 18 and 19 Vict., c. 54.
- (2.) The Order in Council of 6th June, 1859.
- (3.) The Constitution Act of 1867 (Queensland).
- (4.) The Standing Orders of both Houses.
- (5.) A copy of the Members' Expenses Bill of 1884.
- (6.) A copy of the Members' Expenses Bill of 1885.
- (7.) The estimates of expenditure for 1885-86, Executive and Legislative Departments.
- (8.) The Appropriation Bill of 1885-86, No. 2.
- (9.) Extracts from the Journals of the Legislative Council relating to the Appropriation Bill.
- (10.) Extracts from the Votes and Proceedings of the Legislative Assembly relating to the same matter.

The questions submitted for consideration are—

- (1.) Whether the Constitution Act of 1867 confers on the Legislative Council powers co-ordinate with those of the Legislative Assembly in the amendment of all Bills, including money Bills.
- (2.) Whether the claims of the Legislative Assembly, as set forth in their message of the 12th November, are well founded.

We humbly pray that your Majesty will be graciously pleased to refer the said case for the opinion and report of your Majesty's Most Honourable Privy Council.

A. H. PALMER,
President of the Legislative Council.

WILLIAM H. GROOM,
Speaker of the Legislative Assembly.

Legislative Chambers, 17th November, 1885.

The following speech was delivered by the Speaker of the House of Assembly on receipt of a message from the Legislative Council regarding the Bill:—

Mr. SPEAKER said,—I think it my duty, as guardian of the rights and privileges of the House, to call its attention to the message which