

being that contained in the clause which has been struck out. I hold that the clause in this Bill relating to the limitation of pensions is wholly in accordance with the other portions of the Bill referring to pensions. There are some references in May to the subject, which I shall quote, as his authority is more familiar to the House than Mr. Todd's:—

On the 3rd of July, 1678, the Commons resolved, "That all aids and supplies and aids to His Majesty in Parliament are the sole gift of the Commons; and all Bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords."

This is the same resolution that is quoted by Todd; and May's comments on it are as follow:—

It is upon this latter resolution that all proceedings between the two Houses, in matters of supply, are now founded. The principle is acquiesced in by the Lords; and, except in cases where it is difficult to determine whether a matter be strictly one of supply or not, no serious difference can well arise. The Lords rarely attempt to make any but verbal alterations, in which the sense or intention is not affected.

Here, it will be observed how the emphatic words "to limit" and "limitations" are used—which is exactly what the clause rejected by the Legislative Council proposed to effect—namely, that the enjoyment of pensions should be subject to the limitation that deduction should be made from the pension if the pension and salary of office combined exceeded the salary received prior to the pension being obtained. Reliance is then placed by the Hon. the Premier on the following dictum in May:—

On the 30th July, 1867, it was very clearly put by Earl Grey and Viscount Eversley that the right of the Lords to omit a clause which they were unable to amend, relating to a separate subject, was equivalent to their right to reject a Bill which they could not amend without an infraction of the privileges of the Commons.

Now, what are the circumstances of this case? In the Parliamentary Reform Bill of 1867—the Bill for the representation of the people—there was a clause—and it was retained in the Act as clause 7—to the effect that the occupiers were to be rated in boroughs, instead of the owners of the properties—a subject, as it appears, rather foreign to the subject-matter of the Bill; and Viscount Eversley, so well known as Mr. Shaw-Lefevre, for eighteen years Speaker of the House of Commons, gave it as his opinion that the omission of this clause could not be objected to by the Commons, as it related to a subject separate from the main object of the Bill. But in our Bill regulating the mode of granting pensions the rejected clause did not relate to a subject distinct from pensions, but embraced a specific limitation and qualification of the enjoyment of such pensions. Lord Cairns's opinion was, that it was within the competency of the House of Lords to deal with the clause as they thought proper; but he adds,—

No doubt the other House might raise a question of privilege on their part; but with that their Lordships had nothing to do. If their Lordships rejected this clause they would interfere in the question of the incidence of taxation; but their Lordships were not the judges of the privileges of the other House or what they would do in such a case.

That is, as I understand it, the Lords had the indisputable right to reject the clause as they might reject a money Bill, but subject to encountering the resistance of the Commons on the score of the violation of their privileges. I have now given my opinion frankly, and I have only to say that, if the House of Representatives were to waive its privileges in this instance, I cannot see how it can refuse to waive them in all others when-

ever the Legislative Council chooses to encroach upon the special functions of this House in regard to money Bills.

## APPENDIX No. 9.

SIR FRANCIS DILLON BELL to SIR ERSKINE MAY,  
K.C.B.

London, 14th March, 1882.

DEAR SIR ERSKINE MAY,—

In pursuance of your kind permission, I beg to bring under your notice a difference which arose lately between the two Houses in New Zealand about the right of amending Bills. The difference was cognate to the one about the Council amendment in the Railways Bill which you let me bring before you some time ago.

The present dispute is whether a Bill on the subject of pensions, which had been passed by the House of Representatives, was one which the Legislative Council could amend by omitting a certain clause.

The Speaker of the House (Sir Maurice O'Rorke) held that the Council could not strike out the clause; the Clerk of Parliaments (Major Campbell) thought they might. I was therefore asked to solicit your opinion.

I enclose a copy of the Bill. It was brought in by a private member, its general object being to "regulate the granting of pensions" to Civil servants. The dispute was about clause 6, which was alleged to affect injuriously the right of a Civil servant under the existing law. The clause is shown by being enclosed within lines on the copy of the Bill.

I also send you an extract from our *Hansard*, giving an account of what passed in both Houses.

The difference seems to have practically turned on the point whether the clause which the Council struck out was one coming within the principle defined by yourself in the case of clauses omitted by the Lords as being "upon a subject separable from the general object of the Bill;" but it was contended that the Bill was a money Bill, and as such incapable of being amended at all.

The points on which Sir Maurice O'Rorke would like your opinion are these:—

1. Was the Bill a money Bill?
2. Could the Council omit this particular clause?
3. If not a money Bill, was it one of such a character that it was capable of being amended generally in any way; for instance, could clause 6 have been amended by altering its retrospective effect, instead of being simply omitted?

To which I should like to add,—

4. Must a money Bill be brought in by a Minister, signifying the consent thereto of the Crown; or may a private member bring it in without such consent being signified?

You will see in the debates the formal reasons that were exchanged between the Houses when the Representatives disagreed to the Council amendment. There was a further interchange of reasons afterwards, but they were only repetition; at last there was a Free Conference, but the Houses were unable to agree. The Bill was therefore lost, and the same battle will probably be fought over again next session. An expression of your opinion, if you could spare a little of the time every moment of which is now so precious, would no doubt be accepted at once by both sides.

I have, &c.,

F. DILLON BELL.

Sir Erskine May, K.C.B., &c.