

To this the Legislative Council replied by the following message:—

The Legislative Council have waived their amendments in the Bill intituled "The Payments to Provinces Act, 1871," and have agreed to the following clause, to stand as the last clause of the Bill:—

"This Act shall continue in operation until the first day of July next, and no longer."

Also, the Legislative Council have appointed the Hon. the Speaker, the Hon. Mr. Sewell, and the Hon. Mr. Mantell as their Managers to meet the Managers appointed by the House of Representatives, to prepare a case in accordance with the resolutions agreed to by the House of Representatives, in accordance with the suggestions of the Legislative Council contained in Message No. 84, of the 13th November, 1871.

Thus the difference between the two Houses was terminated. The Bill was passed in the form agreed to, and the present statement (prepared on behalf of the Legislative Council) is submitted to the Law Officers of the Crown in England, in accordance with the arrangement come to between the two Houses.

A case will, it is understood, be also submitted to the Law Officers of the Crown, embodying the views taken by the House of Representatives in support of their reasons. This mode of submitting the question to the Law Officers of the Crown has been adopted by the Managers on either side as most convenient.

The broad denial by the House of Representatives of the power of the Legislative Council "to vary or alter the management or distribution of any money as prescribed by the House of Representatives," by the assertion of their sole right "by Act of one session to vary the appropriation or management of money prescribed by Act of a previous session," obliges the Legislative Council to examine the principles which ought to govern the two branches of the Legislature in dealing with money questions.

The leading resolution of the House of Commons on this point is that of the 3rd July, 1678. referred to by Mr. May as that "upon which all proceedings between the two Houses in matters of Supply are founded," and is as follows:—

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.

Further, Mr. May says,—

In Bills not confined to matters of aid or taxation, but in which pecuniary burdens are imposed upon the people, the Lords may make any amendments provided they do not alter the intention of the Commons with regard to the amount of the rate or charge, whether by increase or reduction; its duration; its mode of assessment, levy, collection, appropriation, or management; or the persons who shall pay, receive, manage, or control it; or the limits within which it is proposed to be levied. All Bills of this class must originate with the Commons, as the House of Commons will not agree to any provisions which impose a charge of any description upon the people, if sent down from the Lords, but will order the Bills containing them to be laid aside. Neither will they permit the Lords to insert any provisions of that nature in Bills sent up from the Commons, but will disagree to the amendments, and insist in their disagreement, or will lay the Bill aside.

As regards the legal right of the House of Lords to reject money Bills, their power "as a co-ordinate branch of the Legislature to withhold their assent from any Bill whatever to which their concurrence is desired," is unquestionable. It is a power, however, rarely exercised. The last memorable instance was that of the Paper Duties Repeal Bill. Under what circumstances such a power may constitutionally be exerted cannot, it would seem, be exactly defined. "The constitutional power of the

Commons to grant supplies without interference on the part of the Lords has," as Mr. May points out, "been occasionally abused by tacking to Bills of Supply enactments which, in another Bill, would have been rejected by the Lords, but which, being contained in a Bill which their Lordships had no right to amend, must either have been suffered to pass unnoticed, or have caused the rejection of a measure highly necessary for the public service. Such a proceeding is as great an infringement of the privileges of the Lords as the interference of their Lordships in matters of Supply is of the privileges of the Commons, and has been resisted by protest, by Conference, and by the rejection of Bills."

Such appear to be the leading principles governing the two branches of the Imperial Legislature in respect of money Bills; and they do not appear to justify the propositions maintained by the House of Representatives.

The question in the particular case is, whether the Legislative Council has a right to amend the Bill for altering the capitation allowance to provinces, and applying part of the Public Works Loan to the service of Road Boards, by striking out a clause the effect of which will be to apply part of such loan to the aid of the Provincial Treasuries.

Is such a Bill a Bill of Aid or Supply?

The answer may, it is conceived, be given by referring to the character and functions of "the Committee of Supply." Whatever is within the province of the Committee of Supply must form the subject-matter of a Bill of Supply; whatever is outside the functions of that Committee cannot, it is presumed, have that character. The functions of the Committee of Supply are stated by Mr. May (at pp. 556 and 557, "Treatise on Law, &c., of Parliament") as follows:—

The Committee of Supply votes every sum which is granted annually for the public service, the army, the navy, and the several civil and revenue departments. But the fact already explained should be constantly borne in mind—that, in addition to these particular services, which are voted in detail, there are permanent charges upon the public revenue secured by Acts of Parliament, which the Treasury are bound to defray as directed by law. In this class are included the interest of the national funded debt, the Civil List of Her Majesty, the annuities of the Royal Family, and the salaries and pensions of the Judges and some other public officers. These are annual charges upon the Consolidated Fund; but the specific appropriation of the respective sums necessary to defray those charges, having been permanently authorized by statutes, is independent of annual grants, and is beyond the control of the Committee of Supply.

Mr. May then proceeds to consider the functions of the Committee of Ways and Means.

The Committee of Ways and Means votes general grants from time to time out of the Consolidated Fund "towards making good the Supply granted to Her Majesty;" and Bills are founded upon these resolutions of the Committee, by which the Treasury receives authority to issue the necessary amounts from the Consolidated Fund for the service of the year.

Bills of this class are, it is presumed, properly Bills of Supply, which it is against parliamentary usage for the upper branch of the Legislature to alter.

But as regards Bills not of this class, but affecting charges more or less permanent, already created by law, on the consolidated revenue, and which are beyond the control of the Committee of Supply, the Legislative Council insists that there is no rule debarring it from exercising its ordinary legislative functions. Were it otherwise, it might be compelled to submit to, without the power of varying, changes of a fundamental character in the Civil List, or to reductions in the salaries of Judges,