

What course the Government may choose to take should be marked by coolness and deliberation. They should not meet a vexatious exercise of power with threats, as if one error destroyed the utility of an institution. It is, indeed, possible, by adopting a wrong principle in the nomination of members, to permanently impair its usefulness. If nominations are made of persons who have held no office as representatives of the people, but are chosen merely because the great man of the day thinks proper to distinguish them with his favour, we may lose that highly valuable constitutional principle which assigns a legislative power on the nomination of the Crown, but confines that nomination only to persons of an established reputation. These mistakes have in other countries led to changes which have made a Legislative Council an inferior duplicate of the Assembly in political authority, and therefore utility. Hitherto the Legislative Council has given effect to the views of the representatives in principle, and has therefore maintained the power of moderating their action. In this instance it has reversed the policy of the colony, long established and deliberately affirmed, by taking advantage of the lapse of regulations which it was the object of the Bill to restore and maintain. The Legislative Council has not, therefore, repelled a measure proposing a novelty, but upset a system which had till recently the force of law.

It may be proper for the Government to consider whether there is any remedy for the mischief. Nothing is more thoroughly established than the rules of Parliament, which forbid the bringing-in of a Bill of the same "argument" and "matter" in the same session. We learn from May's "Parliamentary Practice" (third edition, page 249) that so imperative is this regulation that in 1807 Parliament was actually prorogued for a week in order to admit the revival of a Bill which had been rejected by the Lords. We infer from the proceedings in the Upper House that the wish of a majority of one was to precipitate an irrevocable decision; that the aim of Mr. Samuel was to postpone it, to give time to bring up members to support the measure. If, therefore, it is known that their absence caused the Bill to be lost, the public may be saved great inconvenience, and perhaps worse, by a short prorogation. If the country had never been heard upon the subject, and if the party who had opposed the measure had done so upon a well-known and traditional policy, or if the Bill introduced any practice not already tested by years of experience, and to a late date never disputed in principle, the Legislative Council would have been justified in commending the question again to the deliberation of the country, and reserving for it the benefit of second thoughts. This, indeed, is the real business of the Upper House, and its power of maintaining an effective influence is in carefully respecting the conditions under which it is exercised. But in this instance it has attempted to arrest the discussion of an important fiscal measure, which would certainly have admitted a more careful consideration than could be given in a sitting of a few hours.

Mr. Parkes has, however, put upon the motion paper a series of resolutions intended to dispense with the law. The Attorney-General (Mr. Butler) repeatedly told the Assembly, during the discussion on the Bill, that the collection of the Customs on the border remained a legal obligation, and that it could only be abolished by the authority of Parliament. Have the Ministry abandoned this opinion, and have they consented to a policy which they declared to be unlawful? We hope not. Better lose the Bill and suffer the inconvenience of delay than set up the Assembly above the whole Legislature, and especially upon an assumption utterly unjustifiable, that the Council will approve hereafter of a policy which they have condemned, and cure its illegality by an *ex post facto* law.

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(B.)

TUESDAY, 30TH JULY, 1872.

*Government Business.—Notice of Motion.*

Mr. Parkes to move, That this House will to-morrow resolve itself into a Committee of the Whole, to consider the expediency of adopting the following resolutions, namely:—

That an humble Address be presented to His Excellency the Governor, transmitting to His Excellency the following resolutions: (1.) That Parliament was dissolved, and an appeal made to the people, in February last, on the question whether or not the Customs duties should be actually collected on the boundary between this colony and the Colonies of Victoria and South Australia, and that the first Minister who advised the dissolution put this issue, and this issue alone, to the electors. (2.) That a large majority of members were returned to this House in support of the policy of accepting a specific sum from the adjoining colonies in lieu of the actual collection of the duties. (3.) That a Bill to give effect to this policy was read a second time in this House by a majority of thirty-seven to seventeen, and a third time by a majority of twenty-nine to fourteen, and was duly transmitted to the Legislative Council for its concurrence. (4.) That the said Bill, embodying the policy approved by the late and the present Legislative Assembly, and confirmed by the collective vote of the constituencies, has been defeated in the Legislative Council, in disregard of the expressed will of the people and their representatives in Parliament, by a majority of nine to eight out of the thirty-one members forming that House. (5.) That this House is of opinion that the circumstances of this conjuncture justify the Government in proceeding without delay to make an agreement with the Governments of Victoria and South Australia, or with either of those Governments, for securing the payment of a specific sum, fairly ascertained as the approximate amount of revenue to which this colony is entitled, in lieu of the actual collection of the border duties, such agreement to be subject to ratification by Parliament in this or the next following session.

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(C.)

COPY of TELEGRAM to the Hon. CHARLES COWPER, Esq., Dubbo, from the Hon. JOHN ROBERTSON, Esq., holding the position of Colonial Secretary and Premier, dated 29th June, 1869.

DID you ever consent, by minute or otherwise, to limit the number of appointments to the Legislative Council?