

(c.) Out of the ordinary and Land Revenue he is to retain the Civil List.

(d.) After and subject to the above deductions, the General Assembly may make such appropriations as it may deem right.

(e.) "The surplus of such Revenue which shall not be appropriated as aforesaid shall be divided among the several Provinces for the time being established in New Zealand, under or by virtue of this Act, in the like proportions as the gross proceeds of the said Revenue shall have arisen therein respectively, and shall be paid over to the respective Treasurers of such Provinces for the public uses thereof, and shall be subject to the appropriation of the respective Provincial Councils of such Provinces." These are the terms of the Constitution Act (section 66). The Appropriation Act of the last Session follows the same rule.

It would be superfluous to add arguments to enforce the reasonableness and justice of this provision. The Provincial Governments are in like case with the General Government as to their financial necessities. They have establishments to maintain, and the whole local service to provide for, the maintenance of which is of equal importance to the interests of the Colony with the services of the General Government. This provision was obviously intended to place them, as far as possible, in a position independent of the General Assembly. Their right to the surplus revenue must then be viewed as a legal vested indefeasible right, governed by strict law, and which cannot be infringed upon, any more than the civil list or the Company's 4ths.

The principle, then, on which the accounts with the Provinces should be framed, are clearly these:—Year by year (or for each financial period) to bring to account the Revenue accruing during that period; thereout to make the deductions authorised by the Constitution Act. Then to deduct the appropriations of the General Assembly, and to carry over the surplus to the Provincial account, for distribution, according to the ratio prescribed by the Constitution Act.

But savings are sometimes made out of the sums appropriated for particular services. How are such savings to be treated? Ought they to be retained on account of the General Government, and carried forward as balances and made available towards excess of expenditure during the same period on other services? Or ought they to be considered as diminutions of appropriation, and go to augment the distributable surplus for the Provinces? In all appropriation Acts provision is made, not for absolute and final sums for particular services, but only for amounts *not exceeding* the particular sums specified. Whatever, therefore, may not be expended on the specified services, must be regarded as *unappropriated*, and go to augment the distributable surplus.

How, then, is provision to be made for excesses of expenditure, which in the nature of things must happen in carrying on Government? No other mode is open but to treat them as liabilities, for which provision must be made out of future revenue, either by loan or current appropriation. The peculiar Constitution of New Zealand necessitates a strict adherence to this rule. There can be no doubt that the Legislature will at all times be ready to indemnify the Executive Government against liabilities, for expenditure, *bona fide* incurred for the service of the Colony, in reasonable discretion, under unforeseen contingencies; though it must be observed that a mutual confidence between the Executive and the Legislature is an indispensable condition for the safe application of this rule. This, indeed, is the only check which the Legislature can impose upon any degree of improvidence in the expenditure of public money.

But in construing the provisions of the Constitution Act, a question has been raised, whether the ordinary revenue raised under Acts of the old Legislature, falls under the provisions of the Constitution Act; the 64th clause of which refers only to Revenue raised under acts of the "General Assembly."

Without entering into minute discussions on the precise effect of these words, your Committee are of opinion that, on all accounts, the Revenue of the Colony, whether raised under Acts of the Assembly, or of the old Legislature,