

the loan so guaranteed, provided that such contract or arrangement was not inconsistent with the purposes for which such loan was authorized to be raised.

In the Session of the General Assembly just passed (1871), the Government introduced in the House of Representatives a Bill intituled "The Payments to Provinces Bill, 1871," (a copy of which is herewith,) the object of which was to alter the financial arrangements between the Colony and the Provinces; to reduce the amount of capitation allowance payable out of the Consolidated Revenue from 38s. per head to 15s. per head; and in lieu of the £50,000 per annum payable, under the Act of last year, *out of the Consolidated Revenue* to the Provinces for the service of the Road Boards, to apply £100,000 *out of the moneys authorized* to be raised by the loan under "The Immigration and Public Works Loan Act," and which are referred to in the Bill as "The Public Works Fund," to the Provinces for distribution amongst the Road Boards, to be expended by them in the construction of new roads, bridges, and culverts, and, in the maintenance thereof, for one year, and the completion of such works commenced last year as were not yet finished." And there was added in the Bill as sent up to the Legislative Council from the House of Representatives, a clause which has given rise to the question now raised, upon which the opinion of the Law Officers of the Crown in England is requested. The clause was as follows:—

28. "Notwithstanding anything herein contained, it shall be lawful for the Minister of Public Works, if he think fit, on the application of the Superintendent of any Province, to expend any sum not exceeding one-half of the money to be allotted to such Province for the year ending the thirtieth day of June, one thousand eight hundred and seventy-two, under section eleven of this Act, in payment of or in repayment to such Province of the cost of permanent public works in such Province; provided, however, that except in the County of Westland such works shall have been authorized by any Act of the Superintendent and Provincial Council of the Province now in force."

The Legislative Council objected to this clause. Accordingly they expunged the clause, and the Bill in this amended form (and with some other unimportant amendments) was returned to the House of Representatives.

The House of Representatives returned the Bill, with reasons for disagreeing from the amendments of the Legislative Council in clauses 14, 15, 28, and 29, as follows:—

"That the above clauses relate to the appropriation and management of money, and that the Legislative Council has not power to alter or expunge such clauses."

The Legislative Council replied as follows:—

"At this late period of the Session it would be impossible for the two branches of the Legislature to discuss, with the requisite deliberation, the important question of privilege raised by the House of Representatives. But the Council desires briefly to state its views of the question thus raised:—

"The present Bill, so far at least as concerns the application of the Immigration and Public Works Loan, authorized to be raised last year, is not, in their opinion, a Bill of Aid or Supply. It imposes no new burden on the people, nor alters any existing burden, nor is it a grant of money by way of Supply.

"The Colonial Parliament last year authorized a very large loan to be raised on the credit of the Colony, to be expended strictly and exclusively on immigration, railways, and other public works and undertakings specified in the Act.

"It is proposed by the present Bill to divert a part of the money so to be raised to other objects of a cognate character, and to that extent the Legislative Council is prepared to concur in the proposed measure. But it is proposed, further, to authorize the Governor to pay over one-half of the amount so to be diverted, to the Provinces.

"Such an application of the Immigration and Public Works Loan authorized to be raised last year is not, in the opinion of the Council, right or consistent with the engagements upon the faith of which Parliament last year consented to raise the loan.

"The Legislative Council claims the right to exercise its own judgment upon that point. The concession of that right would so narrow as practically to destroy its proper functions as a Legislative body in dealing with questions of a similar character which come before them in a great variety of forms. For the foregoing reasons, the Legislative Council earnestly trusts that the House of Representatives will accept the Bill as amended by the Legislative Council."

To this the House of Representatives made a rejoinder as follows:—

"That it is beyond the power of the Legislative Council to vary or alter the management or distribution of any money as prescribed by the House of Representatives: that it is within the power of the House of Representatives by Act of one Session, to vary the appropriation or management of money prescribed by Act of a previous Session."

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

"This Council cannot assent to the reasons adduced by the House of Representatives for disagreeing to its amendments in the Payments to Provinces Bill, and maintains that the amendments to which the House of Representatives objects, are strictly within the powers and privileges of the Council to make.

"The Council considers the clauses in the Bill, in their original and unamended shape, to be objectionable in principle and in manifest violation of the spirit and intention of the Public Works Act of 1870. The Council recognizes, however, that the Bill is a portion of the general financial policy of the Government, and that its rejection at this stage might be attended with great public inconvenience.

"While, therefore, still maintaining its constitutional right to make the amendments in question, it consents to abstain from the exercise of this right on the House of Representatives agreeing:—

"1. To amend the Bill so as to restrict its operation to the present financial year.

"2. To refer the point in dispute between the two Houses to the Law Officers of the Crown in England, upon a case to be prepared by Managers appointed by each House.

"Subject to these conditions the Council will, on being made acquainted with the names of the Managers appointed by the House of Representatives to draw up the case for reference, cease to insist upon its amendments."