

Whereupon the House of Representatives accepted the terms proposed by the Legislative Council, and transmitted the following message to the Legislative Council:—

“The House of Representatives have considered the reasons adduced by the Legislative Council for refusing to concur in the reasons of the House of Representatives for objecting to the amendments of the Council in the Bill intituled ‘The Payments to Provinces Act, 1871.’”

“The House have concurred in the first proposition of the Legislative Council, respecting the operation of the Bill, and have agreed to the following clause, to stand last clause of the Bill:—

“‘This Act shall continue in operation until the first day of July next, and no longer.’”

“On consideration of the second proposal of the Legislative Council, the House of Representatives have agreed to the following Resolution:—

“‘That this House will concur in the proposition of the Legislative Council, that the opinion of the Law Officers of the Crown be obtained on the question whether, in accordance with the practice of the Imperial Parliament, the amendments made by the Council are within its functions, having regard to constitutional usage and to the powers conferred on the Council by ‘The Privileges Act, 1865,’ and that Mr. Speaker, Mr. Brandon, and the Hon. W. Fox be appointed Managers to meet Managers on the part of the Legislative Council to prepare a case for the purpose. Such opinion to be taken with a view to assisting the Legislature in future action, but not to be binding on either House.’”

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 November 13.”

Another distinct question has been raised as to the constitutional powers of the Legislative Council under an Act passed in the year 1865, intituled the Parliamentary Privileges Act (a copy of which is herewith).

By the 4th section of the Act of 1865, it is enacted that “the Legislative Council or House of Representatives of New Zealand respectively shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as, on the 1st January, 1865, were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and Members thereof, so far as the same are not inconsistent with or repugnant to such and so many of the sections and provisions of the Constitution Act as at the time of the coming into operation of this Act are unrepealed, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise; and such privileges, immunities, and powers shall be deemed to be and shall be part of the general and public law of the Colony; and it shall not be necessary to plead the same, and the same shall, in all Courts and by and before all Judges, be judicially taken notice of.”

The only unrepealed clause in the Constitution Act which touches this question is the 54th, by which it is enacted that “It shall not be lawful for the House of Representatives or the Legislative Council to pass, or for the Governor to assent to, any Bill appropriating to the Public Service any sum of money from or out of Her Majesty’s Revenue within New Zealand, unless the Governor, on Her Majesty’s behalf, shall first have recommended to the House of Representatives to make provision for the specific Public Service towards which such money is to be appropriated.”

The opinion of the Law Officers of the Crown in England is requested upon the following points:—

- I. Whether, independently of “The Parliamentary Privileges Act, 1865,” the Legislative Council was constitutionally justified in amending “The Payments to Provinces Bill, 1871,” by striking out the disputed clause (clause 28)?
- II. Whether “The Parliamentary Privileges Act, 1865,” confers on it any larger powers in this respect than it would otherwise have possessed?
- III. Whether the claims asserted by the House of Representatives in their messages to the Legislative Council are well grounded, or what are the proper limitations thereof?

HENRY SEWELL, F. D. BELL,
W. B. D. MANTELL, A. DE B. BRANDON.

Reasons submitted by the Managers for the Legislative Council in support of the view of the Legislative Council.

A QUESTION has arisen between the Legislative Council and the House of Representatives of New Zealand, upon which the opinion of the Law Officers of the Crown in England is sought to be obtained. The Legislative Council amended a Bill by striking out a clause. The House of Representatives, insisted that the Bill was of that class in which the Legislative Council is, by constitutional usage debarred from making amendments.

The facts of the case are as follows:—

Under various Acts for regulating the Public Revenues of New Zealand, certain principal branches of Revenue, namely, the Duties of Customs, Post Office, Stamps, &c., are thrown together, and form the Consolidated Revenue of the Colony, out of which the annual supplies for the Public Service are appropriated.

By “The Payments to Provinces Act, 1870,” (of which a copy is herewith,) certain capitation allowances, determined according to the population of each Province, were made payable to the respective Provinces of New Zealand out of the Consolidated Revenue for a period of seven years, the