

20. *Hon. Mr. Ballance.*] Then, what would be the remedy?—Petition to the House.

21. Would that be the remedy?—In the case of a private individual I should say so. In the case of a public officer I should say he would be justified in addressing the Ministerial head of his department

22. That would be the usual constitutional remedy?—In the case of a public officer.

23. You have not come across any case of that kind?—No.

24. *Hon. Mr. Hislop.*] Do you remember the case of Mr. Justice Richmond addressing the Colonial Secretary when attacked in the House?—That was read in the House.

25. *The Chairman.*] What year was that in?—I think it was 1878.

26. *Hon. Sir J. Hall.*] Was that “by command”?—I forget.

27. *The Chairman.*] Is it printed?—Yes; the papers in connection with the case appear in the Appendices for 1878 and 1879.

28. *Hon. Mr. Ballance.*] You think that the proper course for a public officer would be to address the head of his department, and that according to the invariable rule of the House of Commons that paper would be laid on the table “by command”?—I did not say that.

29. *Hon. Mr. Hislop.*] It is the rule to lay papers on the table of the House, informing Ministers of any matter within the knowledge of the Crown?—Yes.

30. *Hon. Mr. Ballance.*] Take the Chinese Conference, for instance, or other matter which produces papers containing information, they might be laid on the table of the House “by command” without any question of privilege being concerned?—Yes.

31. Have you found any precedent where it has been held that it is improper for the Crown to communicate the opinions of any person else?—With regard to matter stated in the House, I have no doubt there are cases, but I cannot just now call one to memory. I gather from parliamentary practice that that has been done.

32. *Hon. Mr. Hislop.*] There is a distinction between matters that are “agitating” the House and which “have agitated it” which have been decided?—Yes.

33. And also matters reported to the House with a view simply to giving information, and which have nothing whatever to do with privilege, which simply affect third parties. I mean that the doctrine of privilege arose out of the desire on the part of the House of Commons that the Crown should not interfere with its special privilege?—No doubt, that it should not interfere with matter in debate.

34. *The Chairman.*] That would lead up to this question: Do you think that the Crown is at liberty when a debate is concluded to begin then to take notice?—I hardly think it goes that far. I do not think it goes so far as to say that the Crown would interfere when the matter was settled.

35. *Hon. Mr. Hislop.*] Have you any precedent?—No.

36. How are matters communicated as a matter of fact?—By the presentation of an address. It would be done Ministerially, no doubt.

37. I suppose Ministers have the right to communicate to the Crown any matter which affects the character of persons appointed by the Crown. Do you admit they have the right, and that it is their duty to inform the Crown of any matter affecting the character of any one whom the Crown has appointed?—I should say so, certainly.

38. If matters affecting such persons are mentioned in the House, does that make it less the duty of the Minister to inform the Crown?—I should say not, in the communications of the Minister with the Crown.

39. Then, if the Crown is informed of the answer of the officer, does it follow from that he ought not to inform those who made the change?—I do not think that follows: it is a privileged communication between the Minister and the Crown.

40. They can make it privileged or not privileged?

41. *Mr. W. D. Stewart.*] Between themselves?—But not as regards the House, I think.

42. Was I right in assuming that the practice here has been to present only papers of importance “by command”?—I should say not. There are many papers of little importance presented “by command.”

43. So that there is no rule?—No rule as to the character of the paper.

44. What has been the practice in this House during the time you have been Clerk in regard to papers presented “by command.” Have they been laid on the table simply, or is leave of the House first asked?—As to papers presented “by command,” I do not think the question is necessary; when laid on the table “with leave,” of course, the question is involved in that. But it is usual that the question should be put by the Speaker, although the paper was presented “by command.”

45. *Hon. Sir J. Hall.*] What question?—The question “That the paper do lie on the table.”

46. *Mr. W. D. Stewart.*] Has there been any variation of the practice during your experience?—No.

47. Then, when a paper is presented “by command,” the Speaker puts the question, “That the paper do lie on the table”?—Yes.

48. *Mr. W. D. Stewart.*] Are you aware whether the Crown has transmitted, to be laid on the table of the House “by command,” any paper containing comments or arguments on any speech delivered in the House?—No; I cannot recollect any such case. The case of Lord Normanby, relative to Mr. Wilson, in the Legislative Council, is the only case analogous.

49. Apart from that case you have no recollection of a Governor of the colony asking, at any time, to lay on the table of the House, “by command,” any paper commenting upon any speech, or any matter of debate in the House?—No.

50. *The Chairman.*] If that paper had been presented on the occasion referred to “by leave of the House,” would you have thought there was any departure from ordinary practice?—No, I cannot see that there would have been.