

In 1678 the Commons resolved:

"That all aids and supplies and aids to His Majesty in Parliament are the sole gift of the Commons and that all Bills for the granting of any such aids and supplies ought to begin with the Commons and that it is the undoubted and sole right of the Commons to direct, limit and appoint in such Bills the ends, purposes, considerations, conditions, limitations and qualifications of such grants which ought not to be changed or altered by the House of Lords."

In 1693 the Lords resolved:

"That the making of amendments and abatements of rates of Bills of Supply sent up from the House of Commons is a fundamental, inherent and undoubted right of the House of Peers from which their Lordships can never depart."

It is true that the Lords did not act in accordance with this resolution and tacitly submitted to the claim of the Commons, obviously to avoid conflict with the latter House, but this practice was not the law, and this appears from the preamble of the House of Commons resolution of 1910 which announced the proposed legislation curtailing the powers of the Lords. (May's Parliamentary Practice, 12th edition, p. 518.)

It is remarkable that of the two restrictions on the rights of the Lords which the Commons by its resolution of 1678 tried to impose, namely: the denial of the right to originate and the denial of the right to amend Money Bills, the British North America Act while mentioning the first in section 53 should not mention the second against which the Lords had specially protested.

If it had been the intention of the British Parliament to impose the two restrictions on the Senate it surely would have mentioned them both or if content to rely on the preamble as incorporating the whole British constitution, it would have mentioned neither.

To those reasons might be added this further consideration that there is very little analogy between the Lords and the Senate. The Lords represent themselves, the Senate represents the Provinces. The Lords are not in an independent position as the House of Commons can use its influence over the Crown and induce it to add as many members as are needed to the House of Lords to obtain a favourable majority.

It is probably for that reason that section 18 of the British North America Act when dealing with the privileges, immunities and powers of the Senate refers as the maximum for such privileges, immunities and powers to those held, enjoyed and exercised by the Imperial House of Commons (and not by the House of Lords) at the passing of the Act.

Under the circumstances, we are of the opinion that the Senate of Canada may amend a Money Bill originating in the House of Commons as fully as the House of Commons can do. Of course the powers of the Senate are limited to the same extent as those of the House of Commons by the fact that Money Bills must be recommended by a message of the Governor General.

Yours truly,

(Sgd.) E. Lafleur.  
Aimé Geoffrion.

Hon. Mr. HUGHES.

400 Wilbrod Street,

Ottawa, 27th April, 1918.

The Hon. Senator W. B. Ross,  
The Senate, Ottawa.

Dear Sir,—In reply to yours of the 23rd instant, I beg to say that I have read with much interest the "Memorandum re rights of the Senate in matters of financial legislation," and I find in it a great deal that, were the matter now being discussed for the first time, might well be urged in support of what is evidently the writer's view.

In considering all subjects of the class to which the present belongs, regard has always—and very rightly—been paid to history and precedents; and the relations between our Senate and House of Commons are, as I think, so firmly established that no change could be introduced save by constitutional amendment. I do not mean, necessarily, by amendment of the British North America Act—amendment of constitutional practice, agreed upon by both Houses, would suffice.

From the very earliest time, the Colonial Assemblies have successfully contended for the same privilege with reference to financial bills as that enjoyed by the British House of Commons. The cases in which contention arose are very numerous, but I do not know of any in which the quarrel between the two Houses has resulted in substantial victory for the Council—as, in the earlier constitutions, the second chamber was styled.

A glance at the histories furnishes me with two instances which may be taken as containing typical assertion of the privilege of the Assemblies. The first of these is noted in Dickerson's American Colonial Government, 1696-1765: The author says (p. 160) that, in the time of Governor Cornbury of New York:—

"The Council sought to amend the revenue bill so as to remove this objection, but it was met by the point blank assertion that the Assembly would permit no amendment of Money Bills."

The second instance I take from Dr. Kingsford's book, the History of Canada, volume 9, p. 217. On that occasion (1818) the Council and Assembly were brought into sharp conflict, with the result, as the author says, that:—

"The Council did not conceive an amendment to the money bill as a breach of privilege; but as it was so asserted, the Council would hereafter forbear from all amendment, and simply reject any bill submitted to it, should occasion suggest."

There can be no doubt that the differences between the British House of Lords and the Canadian Senate referred to in the Memorandum are of substantial character; but, after all, the two Houses, with reference to the subject under consideration, occupy the same position. For the members of neither House are elected by the people, and the privilege of the Assembly with regard to money bills has always been based upon the fact that the House was composed of popularly elected members.

In the United States, it is because both the Senate and the House of Representatives have always been composed of men elected by the people—either by direct vote or, indirectly, by the State Legislature—that the two Houses have concurrent authority.

I am, Sir,

Yours truly,

(Sgd.) John S. Ewart.