

MONTREAL, April 30, 1918.

The Honourable W. B. Ross,
The Senate, Ottawa, Ont.

DEAR SIR,—We have been asked if in our opinion the Senate has the power to amend Money Bills.

Sections 17 and 91 of the British North America Act place the Senate on exactly the same footing as the House of Commons as respects all legislation.

The only material derogation to this general rule is contained in section 53 which provides that Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons.

The denial of the right to originate Money Bills does not involve the denial of the right to amend them. Nothing therefore in the text of the British North America Act takes away the latter right from the Senate.

The first paragraph of the preamble where it is stated that the provinces desire to be united federally with a constitution *similar in principle* to that of the United Kingdom is relied on.

These words being in the preamble have much less importance than if they were in the text. Further it is obvious that similarity in principle does not mean identity in detail; the Canadian constitution differs from the British constitution in many and important respects; the similarity in principle referred to in the preamble is intended to exist only to the extent stated in the text.

The third paragraph of the preamble states that it is expedient not only that the constitution of the Legislative authority in the Dominion be provided for but also that the nature of the Executive Government therein be declared, and the text of the Act contains many sections which merely restate rules of the British constitution such as section 53 already referred to.

If the above-mentioned words of the preamble meant that the British constitution applies to Canada except in so far as the text of the Act expressly derogates therefrom the third paragraph of the preamble and all those sections particularly section 53, would be useless or meaningless.

The consideration of how the rule limiting the powers of the House of Lords in the United Kingdom came to be adopted affords an additional argument in support of the view suggested by the text of the British North America Act.

In the early days there was a conflict between the British House of Commons and the House of Lords on this question of the powers of the House of Lords in respect of Money Bills.

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: