

I must admit that I stand corrected as to the power of the Senate to amend money bills. I was not clear that we had decided supply bills could be amended. I have a vague recollection that the report to which my honourable friend refers would cover our right to reduce a particular vote in a supply bill, although since 1867 the tradition has been that the Bill should be accepted or rejected in toto. The report, in contradiction of the tradition, affirms that we can amend a supply bill by reducing any item in it.

Hon. Mr. HUGHES: I am entirely in the hands of the House. I should like to place on record the report, and as well the opinions prepared by the eminent counsel whom I have mentioned.

Hon. Mr. DANDURAND: Yes, the whole thing.

Mr. HUGHES: Then I will hand in the report to be incorporated in Hansard.

The Senate,

Committee Room No. 70,

Thursday, May 9, 1918.

The Special Committee appointed to consider the question of determining what are the rights of the Senate in matters of financial legislation, and whether under the provisions of The British North America Act, 1867, it is permissible, and to what extent, or forbidden, for the Senate to amend a Bill embodying financial clauses (Money Bill), have the honour to make their Second Report, as follows:—

Your Committee beg to report that in the latter part of the last Session of Parliament a similar Committee was appointed, but owing to the late date of appointment opportunity was not afforded the Committee for a full consideration of the Order of Reference. During the recess the Honourable W. B. Ross, a member of this Committee, prepared a memorandum dealing with the question, copy hereto attached, which memorandum has been carefully considered and adopted by this Committee. The following summing-up thereof is submitted as the conclusions of your Committee on the rights of the Senate in matters of financial legislation:—

1. That the Senate of Canada has and always had since it was created, the power to amend Bills originating in the Commons appropriating any part of the revenue or imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

2. That this power was given as an essential part of the Confederation contract.

3. That the practice of the Imperial Houses of Parliament in respect of Money Bills is no part of the Constitution of the Dominion of Canada.

4. That the Senate in the past has repeatedly amended so-called Money Bills, in some cases without protest from the Commons, while in other cases the Bills were allowed to pass, the Commons protesting or claiming that the Senate could not amend a Money Bill.

Hon. Mr. DANDURAND.

5. That Rule 78 of the House of Commons of Canada claiming for that body powers and privileges in connection with Money Bills identical with those of the Imperial House of Commons is unwarranted under the provisions of The British North America Act, 1867.

6. That the Senate as shown by The British North America Act as well as by the discussion in the Canadian Legislature on the Quebec Resolutions in addition to its general powers and duties is specially empowered to safeguard the rights of the provincial organizations.

7. That besides general legislation, there are questions such as provincial subsidies, public lands in the western provinces and the rights of the provinces in connection with pending railway legislation and the adjustment of the rights of the provinces thereunder likely to arise at any time, and it is important that the powers of the Senate relating thereto be thoroughly understood.

Your Committee are indebted to Messieurs Eugene Lafleur, K.C., Aimé Geoffrion, K.C., and John S. Ewart, K.C., prominent constitutional authorities, of Montreal and Ottawa, who have been good enough to forward their views on the question under consideration by your Committee. These opinions are appended hereto and form part of the Committee's Report.

All which is respectfully submitted.

W. B. Ross,

Chairman.

Memorandum

Re Rights of the Senate in Matters of Financial Legislation

The Constitution and Powers and Practice of the House of Lords and the House of Commons are so well known that it is unnecessary to refer to them except so far as it is required to explain the constitution and functions of the Canadian Senate. This enquiry will be limited to the powers of the Senate in respect of "Money Bills"—Bills appropriating any part of the revenue or imposing a tax.

The House of Lords has at present six hundred and odd members and all of these except about seventy owe their position to birth. The Crown has the prerogative to create an unlimited number of new peerages. This is commonly known as the "swamping power" and has often been described as the safety valve of the British Constitution. From recent legislation it is quite clear that the House of Commons supported by the Crown can impose any terms on the House of Lords. Till then that House had constitutionally co-ordinate powers with the House of Commons in "Money Bills" as in all Bills and had never formally abandoned them except as to originating money Bills. Todd, Vol. 1, p. 813, says,—Lord Derby in 1861 clearly showed that the Lords had never formally abandoned its rights to amend "Money Bills" and that in the opinion of eminent constitutional authorities they would be warranted in such an act should it be necessary to vindicate their freedom of deliberation and to prevent the enacting of a measure which they regarded as objectionable.

In 1661 the Commons asserted "that no Bill ought to begin in the Lords House which lays any charge or tax upon any of the Commons."

In 1671 the Commons affirmed that "in all aids given to the King by the Commons the rate or tax ought not to be altered by the Lords."