

DECISION OF MR. SPEAKER

ON A

POINT OF ORDER RAISED ON AMENDMENT PROPOSED TO BILL No. 8.

The Chairman of the Committee on Bill No. 8, intituled "An Act relating to certain Acts and Ordinances," reports the Bill complete, with amendments.

The amendments made to the Bill were proposed by a private member, the Honourable Member for Victoria City (Mr. Drummond).

These amendments, in addition to taxes imposed by the Bill before amendment, impose the following further taxes, viz.:—

"Upon any person practising as a Physician, Surgeon, or Land Surveyor, twenty-five dollars for every six months."

A Point of Order has been raised by the Honourable Member from Comox, that the taxes proposed by the amendment were not recommended by Message from His Honour the Lieutenant-Governor, and are therefore in contravention of the provisions of the 54th section of the British North America Act, which provides that the House "shall not adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost to any purpose, that has not been first recommended by Message of the Lieutenant-Governor," &c.

Neither the Bill nor Amendment propose to appropriate any portion of the public revenue, or any part of any tax or impost upon the people, and the provisions of this section do not therefore apply in the present instance.

This position is borne out by the proceedings of the House of Commons at Ottawa, and the authority hereinafter referred to.

The objection of the Honourable gentleman from Comox is therefore untenable, and falls to the ground.

It is, however, a Bill that should, according to Rule 85 of our Rules and Orders, originate in Committee of the whole House, and should be introduced by a member of the Government.

Mr. Speaker Cockburn, in deciding upon a Point of Order raised on the second reading of a Bill to remove doubts as to the liability to stamp duties of premium notes taken or held by mutual fire insurance companies, objecting that the Bill must, under the 54th section of the British North America Act, be first recommended by Message from the Crown, and also that the Bill should originate in Committee of the Whole, gave his decision as follows:—

"There being no appropriation of money proposed, there need be no recommendation from the Crown, and the objection rests on the ground that as it involves an additional charge upon the people the Bill should have originated in Committee of the Whole, and should have, moreover, been proposed by a Minister."

Instances may undoubtedly be found in the Journals of the English House of Commons of Bills and Motions being introduced by private members to increase taxation, some of which have passed unchallenged, whilst in other cases the indirect assent of a Minister has been deemed sufficient.

Recently, however, (in 1869) a high authority (Sir Thomas Erskine May) stated before a Joint Committee of the two Houses of Parliament "that no private member is permitted to propose an Imperial tax upon the people. It must proceed from a Minister of the Crown, or be in some form declared to be necessary for the public service."—*See Speakers' Decisions, by Lefeveriere.*

Where the general question of a revision of the Customs Duties has been submitted to the House by the Crown, it is competent for a member (to a certain extent) to increase or to diminish a particular rate of duty proposed, or even to insert in the schedule a new rate of duty, provided it relates to an article already included therein.

But this amendment goes further, it imposes new and distinct taxes.—*See Todd*, 451, 452.

Further than this, the amendment was not a matter which had been committed to the Committee by the House, for the additional taxes proposed by the amendment had not been previously reported by a Committee and agreed to by the House.—*See May*, p. 362, 470.

It might be argued that, this being a Bill relating to municipalities, the amendment was in order in accordance with *May*, p. 448, which states "That the rule has been held 'not to apply to Bills authorizing the levy or application of rates for local purposes, by 'local officers or authorities representing or acting on behalf of the ratepayers.'" And on page 449, of the same distinguished authority, it states "that local rates never have 'been regarded as coming within the Standing Order,' *i. e.*, the Standing Order of the English House of Commons, from which our Rule, No. 85, is copied verbatim.

But on looking into the Bill as introduced, and as amended, it will be seen that the Bill imposes certain taxes on Barristers, Attorneys, Physicians, Surgeons, and Land Surveyors generally throughout the Province, *i. e.*, the taxes or imposts are Provincial taxes and not merely municipal rates, and therefore do not come within this exception to the general rule.

To follow the practice of *this* House would be irregular; the rules in respect to Bills, subject to the provisions of the 54th section of the British North America Act and Rule 85 of our Rules and Orders, not having been regarded in former years. Among instances of such disregard of parliamentary practice, Bill No. 11 of 1876, and Bills No. 13 of 1877, and No. 12 of 1878, may be cited.

Bill No. 11 of 1876 was amended, in the same manner as it is proposed to amend the Bill in the present instance, by inserting as sub-section (*q.*) the following:—

"(*q.*) By every person not being a permanent resident in British Columbia, and not 'being a commercial traveller, who trades or sells any goods whatsoever in the Province, \$150 in advance every year: Provided, that in the Electoral District of 'Kootenay, the sum of one per cent. only shall be paid by any person engaged in the 'business of packing, on the gross value of the cargo."

Bills Nos. 13, of 1877, and 12, of 1878, each appropriated \$15,000 of the Consolidated Revenue of the Province, and in contravention of the 54th section of the British North America Act both these Bills were introduced without a Message from the Crown recommending the same.

With respect to the rule that such a Bill or Motion as the one under discussion should be introduced by a Minister, or if initiated by a private member (a practice which should be discouraged), a Minister should assume the responsibility of it.

To follow out the decisions referred to, I shall have to rule the Amendment out of Order.

The language of Mr. Speaker Cockburn, when deciding the Point of Order before referred to, is so appropriate that I shall conclude my decision by quoting it almost word for word:—

"If the House agrees with me as to the desirability of adopting this constitutional 'restriction, it will become my duty to enforce the observance of the rule hereafter."