

II

CHAPTER I

WHAT IS PARLIAMENT ?

1. With a large mass of the people Parliament in these days means the House of Commons. It does not include in it the House of Lords, and certainly not the King. This popular notion is due largely to the fact that the House of Commons has become the most dominant element in the working of the English Constitution. But however justifiable such a notion may be, speaking in terms of law it is a wrong notion. Legally Parliament consists of three constituent elements, the King, the House of Lords and the House of Commons. All legislative power belongs to the King, the House of Lords and the House of Commons jointly. It is vested in the King in Parliament, *i.e.*, in the King acting in consent with the two Houses of Parliament. Legally, every Act before it can become the law of the land, requires the King's assent. How important element the King is in the Constitution of Parliament will be evident, if it is borne in mind that the two Houses of Parliament can transact their business only if they are summoned by the King. They cannot meet on their own initiative and authority and transact business. How important place the King occupies will also be obvious if it is remembered that the power to summon, prorogue and to dissolve the Houses of Parliament vests in the King and is exercisable at any time according to his pleasure. On the other hand, it is usually true that without the consent of the two Houses of Parliament, the King has no inherent power of legislation whatever within the United Kingdom. Every act of the King to be law must have the assent of the House of Commons and the House of Lords, unless it is otherwise provided by Statute.

2. The proposition, that all legislative power is vested in the King in Parliament and that no law could be passed without the concurrence of the King, the House of Lords and the House of Commons, is subject to two qualifications.

(1) *The King's veto*.—Although in law the King's assent is necessary to every measure before it can become law, his power to refuse assent, *i.e.*, his power to veto has become absolute by misuse. The right of veto has not been exercised since the days of Queen Anne, who refused her assent to the Scotch Militia Bill of 1707. The impairment of this power of veto by the King is not a legal impairment. In law his power of veto exists in all its amplitude without any qualifications. This is due to forbearance founded on a convention whereby it is settled that when the two Houses agree, the King should not refuse his assent. It's disuse does not mean that it is buried beyond revival. Suppose a ministry resigns after a bill is passed by the House of Commons. The House of Lords insists upon passing the bill in spite of the opposition of the new ministry. It would be rash to assert that in such a case the Royal assent would not be withheld even though both the Houses have concurred in the legislation.

(2) *The veto of the House of Lords*.—The House of Lord was once a co-ordinate and co-equal branch of the legislation, and every measure before it could become an Act of Parliament depended upon it's assent, asmuchas upon that of the House of Commons. Although this was the position in law, the House of Commons had claimed in practice exclusive authority for themselves in finance and an overriding authority in other legislation.

In 1671, the House of Commons passed the following resolution : "That in all aids given to the King by the Commons, the rate of tax ought not to be altered by the Lords."

In 1676, the Commons adapted another resolution as follows: "That all bills granting supplies ought to begin with the Commons, and it is the undoubted and the 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 ordinary legislation of a non-fiscal character, the Commons claimed that although the House of Lords might differ from the House of Commons, yet when a conflict arose between the two

Houses the Lords should at some stage wield to the views of the Houses, the Lords should, at some stage, wield to the views of the claim. Even since the Lords had never expressly admitted them, although in practice the Lords conformed to them, the practice was a mere matter of political understanding, a convention and was not reduced to law. The House of Lords was possessed in law of the power of veto, *i.e.*, the right to refuse assent to any measure fiscal or non-fiscal. Here again the case was not one of legal impairment of power. It was a case of forbearance in the exercise of it. In 1910, the House of Lords, contrary to established practice, insisted in asserting their right to refuse assent to the financial proposals in the budget of Mr. Lloyd George. A conflict between the House of Commons and the House of Lords arose. It was settled by the Parliament Act of 1911. The Act is a most important piece of legislation relating to the English Constitution inasmuch as it has affected the veto power of the House of Lords in certain matters in a vital manner.

The Parliament Act of 1911 applies to Public Bills only. It does not apply to Private Bills. In regard to Private Bills, the veto power of the House of Lords remains in tact. Even though this applies to Public Bills it does not apply to all of them. It does not apply to a Public Bill which affects the duration or life of Parliament. Under the Parliament Act the House of Commons retains the power of veto in respect of such bills. In the case of these Public Bills to which it does apply, its effect on the veto power of the House of Lords is not the same. It varies. The Parliament Act divides Public Bills into two classes. (1) Public Bills which are money bills and (2) Public Bills which are not money bills. A money bill is defined as a Public Bill which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely; imposition, repeal, remission, alteration or regulation of taxation, the imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund or on money provided by Parliament or the variation or repeal of any such charges, supply, the appropriation, receipt, custody, issue or audit of accounts of public money, the raising or guarantee of

any loan or repayment thereof or subordinate matters incidental to those subjects of any of them. The Act lays down that if a Money Bill having been passed by the House of Commons and sent up to the House of Lords at least one month before the end of the Session, is not passed by the House of Lords without amendment within one month after it is so sent up to that House, the bill shall, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal assent being signified, notwithstanding that the House of Lords have not consented to the Bill.

With regard to other Public Bills, the Parliament Act of 1911 provides that if it is passed by the House of Commons in three successive sessions (whether of the same Parliament or not) and having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of these sessions, that bill shall, on its rejection for the third time by the House of Lords, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill, provided that this provision shall not take effect unless two years have elapsed between the date of the second reading in the first of these Sessions of the Bill in the House of Commons and the date on which it is passed by the House of Commons in the third of those Sessions.

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These are the main provisions of the Parliament Act of 1911. It has altered the character of that veto with regard to a Public Bill other than a money bill by making it a merely suspensory veto which has the effect of merely holding up the legislation passed by the House of Commons during the prescribed period. The power to block legislation, which the House of Lords once possessed as a co-equal member of Parliament, has now been taken away by the Act.

Subject to these deductions, conventional and legal, regarding the authority of the King and the Lords, the proposition that

Parliament consists of King, Lords and the Commons and that without their consent a bill cannot become law, remains as true today as it was before the Act of 1911.



