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A TREATISE
ON THE
PROCEEDINGS TO BE ADOPTED
IN CONDUCTING OR OPPOSING
PRIVATE BILLS
IN THE
Parliament of Canada;
AND THE
STANDING ORDERS OF BOTH HOUSES
IN RELATION THERETO.

BY ALFRED TODD,
CHIEF CLERK OF THE PRIVATE BILL OFFICE,
LEGISLATIVE ASSEMBLY.

SECOND EDITION,
EMBRACING THE LATEST CHANGES IN THE PRACTICE.

Montreal:
PRINTED BY JOHN LOVELL, ST. NICHOLAS STREET.
1862.

266217

JL148
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1862.
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P R E F A C E .

THE first edition of this Treatise was published early in the Session of 1862, when the new Rules adopted by the Legislative Council assimilating the practice of the two Houses first came into operation. Certain modifications of the Rules and practice, calculated to define more clearly the requirements of the Rules, and the powers of the Committee on Standing Orders, and also to facilitate the transaction of business between the two Houses, were suggested in the course of the Session, and these having been agreed upon by the Private Bill Committee of each House, were embodied in Reports to the Legislative Council and Legislative Assembly, respectively, and received their concurrence.

The alterations thus made, though comparatively unimportant, rendered it desirable that a new edition of this work should be issued; and the Committee of the Legislative Assembly having specially recommended that this should be done, a second edition has been prepared accordingly, embodying the changes above referred to, and also the precedents established by decisions and practice in the year 1862.

LEGISLATIVE ASSEMBLY,
QUEBEC, July, 1862.

PREFACE TO THE FIRST EDITION.

THE object of this work, is to explain fully the proceedings at the various stages, in either House, and in Committee, upon Private Bills solicited in the Parliament of Canada. The system of practice, though based on that adopted in the Imperial Parliament, differs from it materially in many of the details; and the absence of any hand-book or guide to the course of proceedings to be observed, has been long felt, not only by parties soliciting or opposing Bills, but also by Members of the Legislature charged with the conduct of such Bills in either House.

The writer has been connected with the Private Bill Office since its establishment, and has thus had an opportunity of noting down, as they occurred, the various decisions and modifications which have been made from time to time, and which have established the system of practice as it now stands; while in all matters not specially provided for, reference is made (in accordance with a Standing Order) to the usages of the Imperial Parliament.

The Rules of the two Houses concerning Private Bills are appended to the work. The Provincial precedents referred to (based on decisions or practice, in the House or in Committee,)

will be found in the Journals of the Legislative Assembly (the present system having been but recently introduced into the Upper House). The authorities cited in explanation of the Imperial practice, are:—

Report on the practice of the House of Commons upon Private Bills: with suggestions for the future regulation of Private Business in the Legislative Assembly of Canada. By ALPHEUS TODD, Librarian to the Legislative Assembly. (1847.)

Report from the Select Committee of the House of Commons on the Business of the House. (1861.)

MAY on the Law, Privileges, Proceedings, and Usage of Parliament. Fourth edition. (1859.)

SHERWOOD on the proceedings to be adopted in conducting Private Bills through the House of Commons. Third edition. (1834.)

FEBRE'S Practice of Committees of the House of Commons, with reference especially to Private Bills. (1846.)

BRISTOWE on Private Bill legislation in the Imperial Parliament. (1859.)

LEGISLATIVE ASSEMBLY,

QUEBEC, May, 1862.

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PROCEEDINGS
TO BE ADOPTED IN CONDUCTING
PRIVATE BILLS
THROUGH THE
PARLIAMENT OF CANADA.

1.—PRELIMINARY OBSERVATIONS.

The distinction between Public and Private Bills is one that has been recognized and acted upon by the Parliament of the Mother Country from a very early period, and the mode of proceeding upon the two classes of bills has also differed in some important particulars. In passing Private Bills, while Parliament still exercises its legislative functions, its proceedings partake also of a judicial character: the parties interested in such bills appear as suitors, while those who apprehend injury are admitted as adverse parties to the suit.

Distinction
between
Public and
Private
Bills.

Much of the formality of a Court of Justice is maintained; conditions are required to be observed and their observance proved by the promoters of a bill, and if they abandon it and no other parties take it up, the bill is dropped, however sensible the House may be of its value.^(a)

First provision for Private Bills in Canada.

Although this distinction was recognised by the Provincial Legislature in framing Rules for its guidance at its first Session (in 1841) by the adoption of a provision requiring 2 months' notice of applications for private bills, and the exaction of a fee of £20 on all such bills; and also by the appointment, every Session, of a Standing Committee on Private Bills; little else was done towards the adoption of a regular system of practice, until the year 1846, when the Speaker of the Legislative Assembly was authorised to cause an inquiry to be made into the system pursued in the House of Commons, with a view to the preparation of a system of Standing Orders and practice adapted to the circumstances of this Province.^(b) The result of this was laid on the table of the House in the following Session, in the shape of a Report, prepared by Mr. Alpheus Todd, the present Librarian of the Legislative Assembly, giving a full and lucid explanation of the sys-

Alpheus Todd's Report on Private Bill practice.

(a) May, p. 616.

(b) Assembly Journ., 1846, p. 344.

tem of practice in operation in the Imperial Parliament, and submitting a code of orders and regulations such as appeared suitable for this Province. (c) No immediate action was taken upon this Report, but in the same Session the practice of referring both petitions and bills to the Committee on Private Bills indiscriminately was discontinued, and petitions were from that time referred to the Committee on Standing Orders, for proof of a compliance with the Rules of the House.

In 1850, a Private Bill Office was established, in pursuance of a suggestion contained in the above-mentioned Report, and a system of practice organised, which, with some few modifications subsequently in the details, is that now in use.

Up to the year 1861, no regulations had been made by the Legislative Council concerning private bills, except to require an official report to the Speaker of the notices given on petitions, and the payment of a fee on all such bills as originated in that House: but in the Session of 1861, a conference was held between the two Houses, which led to the adoption, by the Council, of the Private Bill Rules of the Assembly *verbatim et literatim*. (d) These Rules were slightly modified in the succeeding Session, and are now common to both Houses; they will be found at the end of this work,

Private Bill
Office.

Former
practice in
L. Council.

Practice in
both Houses
now identi-
cal.

(c) Assembly Journ., 1847, p. 31. (App. B.)

(d) L. Council Journ., 1861, pp. 98, 104.

(*Appendix I.*) together with certain additional Rules of the Legislative Council relating to Divorce Bills. (*Appendix II.*)

The practice of the two Houses being thus made identical, the account given in the following pages, of the proceedings on Petitions and Bills in the Lower House, will apply equally to the Upper. It should be stated, however, that the fee is charged only in the House in which the bill originates,^(e) and all expenses for printing and translation being exacted at the same time, no payment is required to be made in the other House, except in cases where a bill is ordered to be reprinted, when the expense must be borne by its promoters. As a general rule, private bills may originate in either House, but it being the exclusive right of the Commons to impose and appropriate all charges upon the people, every bill which involves any tax, rate, toll, or duty, ought to be first brought into that House.^(f) It has followed from this restriction that by far the greater number of private bills have been passed first by the Assembly.^(g) It may be worthy of

In which
House Pri-
vate Bills
may origi-
nate.

(e) 60th Rule, Legislative Assembly.

(f) May, pp. 418, 618.

(g) The House of Commons, by a Standing Order of 27th July, 1858, have agreed "that this House will not insist on its privileges with regard to any clauses in private bills sent down from the House of Lords, which refer to tolls and charges for services performed, and are not in the nature of a tax."

consideration whether it might not be desirable, in this Province, also to include bills relating to Banking in this category, as they are necessarily subject to the supervision of the Minister of Finance, who has always a seat in the Lower House. The Lords have generally originated naturalization, name, estate, and divorce bills, ^(h) but this has not been the practice with the Legislative Council, save only as regards divorce bills, which have invariably been introduced first into that House.

The House of Commons, by a Standing Order of 1858, (No. 67), have provided that the Chairman of Ways and Means, shall, at the commencement of each Session, confer with the Chairman of Committees of the House of Lords, for the purpose of determining in which House the respective private bills should be first considered, and report the same to the House. ⁽ⁱ⁾ This arrangement was the result of a recommendation contained in the 3rd Report of the select committee of the House of Commons on Private Bills, in 1847. (p. 6.)

Arrange-
ment be-
tween the
two Houses
for origina-
ting Bills.

(h) May, p. 619.

(i) Bristowe's Private Bill Practice, pp. 15, 73. An example of the result of this arrangement will be seen by referring to the Commons Journals of 1860, p. 16.

2.—DEFINITION OF A PRIVATE BILL.

Distinction
between
Public and
Private
Bills.

Every bill for the particular interest or benefit of any person or persons, is treated as a private bill, whether it be for the interest of an individual, a public company or corporation, a parish, a city, a county, or other locality; ^(a) it is equally distinguished from a measure of public policy in which the whole community are interested, and this distinction is marked by the solicitation of private bills by the parties whose interests are concerned. ^(b)

Semi-
private
bills.

There is a class of bills, however, which, though local or special in their operation, yet having been solicited by persons not in the interest of the parties to be affected by their operation, or having been introduced upon public grounds, have been treated by the Legislature as public bills. Bills of this class have occasionally been introduced as private, and referred to the Standing Committee on Private Bills, but upon

(a) A bill for the benefit of three Counties has been held by the House of Commons to be a private bill. 1 Commons Journ., p. 388.

(b) May, p. 612.

their report that they were public, rather than private in their character, they have been referred by the House to another committee, and treated otherwise as public bills. (c) It must be obvious, however, that on bills of this nature, the same notice should be required, as upon a private bill, with the exception only of such as are introduced upon some well defined principle of public policy or right.

In 1858, the Committee on Private Bills reported, with reference to a bill to attach certain newly surveyed townships to the County of Victoria, that they were in doubt whether the bill came within their province, inasmuch as it affected the Territorial Divisions of the Province, the Representation, and the administration of Justice; but they prepared such amendments as appeared to them desirable, and left it to the House to consider whether action should be taken on their report or not. The House took the bill into consideration with the proposed amendments, and treated it therefore as a private bill. (d)

Victoria
New Town-
ships Bill.
(L. Assem-
bly.)

In the House of Commons, may be instanced the

(c) Quebec Recorder's Court Bill, 1856; Montreal Trinity House Bill (amending the provisions concerning pilotage), 1857; Quebec Harbour Bill (a Government Trust), 1858; River Welland Bridges Protection Bill, 1859; Caisse d'Economie de St. Roch Investigation Bill, 1861.

(d) Assembly Journ., 1858, pp. 568, 684.

Passing
Tolls on
Shipping
Bill (Com-
mons).

Passing Tolls on Shipping Bill (introduced in 1856), which was held to be a public bill. It concerned the harbours of Dover, Ramsgate, Whitby and Bridlington, abolished passing tolls, transferred the control of those harbours to the Board of Trade, imposed tolls, and repealed local Acts; but, being a measure of general policy, its character was not changed by the fact that these harbours only came under its operation.^(e) The practice in Canada, has been to treat all Bills relating to the Representation,^(f) or the administration of Justice,^(g) however local or partial in their operation, as public bills, these questions being under the especial charge of the Administration, and being dealt with on broad general principles. All bills relating to Government Trusts or Commissions,^(h) or public works under Government control,⁽ⁱ⁾ are likewise so treated.

Certain bills
treated as
public bills.

(e) May, p. 614.

(f) Armagh Representation Bill, 1858; Peel do., 1858; Drummond and Arthabaska do., 1858; Bill to transfer Delaware from the West to the East Riding (Electoral division) of Middlesex, 1862, &c.

(g) Montreal Recorder's Court Bill, 1852-3; Gaspé Circuit Court Bill, 1852-3; Huntingdon Circuit Court Bill, 1854-5; Montmagny do., 1858, &c.

(h) Montreal Trinity House Bill, 1857; Quebec Harbour Bill, 1858; Montreal Turnpike Road Trust Bill, 1861; Montreal Port Warden Bill, 1862, &c.

(i) Northern Railway Bill, 1859, &c.

The proceedings observed in the Imperial Parliament in the passage of private bills, are necessarily somewhat complicated in their character, in consequence of the numerous checks imposed for the protection of the many interests which they may affect or involve ; and the expense attending these proceedings is considerable : but the different circumstances of this Province, as a country but newly settled, allowing a freer scope for private enterprise, with comparatively little risk of infringing upon existing rights or privileges, admit (for a time at least) of a much simpler and more inexpensive system of Private Bill legislation. In explaining the system adopted (after various modifications) by our Legislature, it is proposed to state the various forms and proceedings so far as can conveniently be done, in the order in which they occur, from the presentation of the petition (in either House) to the final passage of the bill. It will be convenient for this purpose to begin with the Legislative Assembly, but the course observed in either House being now (excepting upon Divorce Bills, the proceedings on which in the Upper House are described in the latter part of this work) entirely identical, the description will apply equally to bills originating in the Legislative Council.

Proceedings
in Assembly
to be de-
scribed first.

3.—PARLIAMENTARY AGENTS.

Parliamentary Agents must be employed in Imp. Parl.

Not obligatory in Canada.

In the Imperial Parliament, every Private Bill or petition must be solicited by a Parliamentary Agent, who conducts the bill through its various stages, and is personally responsible to the House and to the Speaker, for the observance of the rules, orders, and practice of Parliament, and for the payment of all fees and charges : and no proceeding upon any petition or bill can take place, until an appearance to act as the Parliamentary Agent upon the same shall have been entered in the Private Bill Office.^(a) This practice of employing Parliamentary Agents has been but recently introduced in Canada, and it has not hitherto been made obligatory, though the increase of business may possibly render it desirable to adopt some such course, in order that Members may be relieved from a duty that is often inconvenient and embarrassing, and frequently involves a sacrifice of time and trouble which should not in fairness be expected of them.

In the revised code of Rules prepared by the Hon.

(a) May, p. 640.

Sir Henry Smith (then Speaker), and adopted by the Assembly in 1860, provision was made for the recognition of Parliamentary Agents,^(b) who had up to that time acted in a private and irresponsible capacity. No person is now permitted to act as Parliamentary Agent, without the express sanction and authority of the Speaker. This having been obtained, he is required to sign a declaration before the Chief Clerk of the Private Bill Office, engaging to observe and obey all the Rules of the House, and to pay all fees and charges, when demanded, and further, to enter into a recognizance in \$2,000 (if required at any future time by the Speaker) conditioned to observe such declaration. His name is then registered in a book, and he is entitled to act as a Parliamentary Agent, but is liable to an absolute or temporary prohibition to practise (at the pleasure of the Speaker), for any wilful violation of the Rules and practice of Parliament, or of any rules prescribed by the Speaker. Members^(c) and Officers of the

Mode of
qualifying.

Disqualifi-
cations.

(b) 49th and 50th Rules, L. A.

(c) The House of Commons, by a Resolution of 26th February, 1830, declared, *nem. con.*, "That it is contrary to the law and usage of Parliament that any Member of this House should be permitted to engage, either by himself or any partner, in the management of private bills, before this or the other House of Parliament, for a pecuniary reward." Commons Journ., 1830, p. 107.

One of the Sessional Orders of the Legislative Assembly also declares "that the offer of any money or other advantage to any

House ^(d) are alike disqualified for Parliamentary Agency.

Registra-
tion of
Agents.

The name and place of residence of the Parliamentary Agent soliciting a Bill are entered in the Private Bill Register, in which also are recorded all the proceedings, from the petition to the passing of the Bill. This book is open to public inspection. ^(e)

The Rules relating to Parliamentary Agents belong only to the Legislative Assembly, no regulations having been adopted by the Legislative Council on this subject.

Members in
charge.

It is usual for the Member who presents the petition to take charge of the bill through its different stages. ^(f)

Member of the Legislative Assembly, for the promoting of any matter whatsoever depending or to be transacted in the Provincial Parliament, is a high crime and misdemeanor, and tends to the subversion of the Constitution. *Assembly Journ.*, 1860, p. 404.

(d) In compliance with the recommendation of a Select Committee on the House of Commons Offices in 1835, no officer or clerk belonging to the establishment is allowed to transact private business before the House, for his emolument or advantage, either directly or indirectly. *May*, p. 642.

(e) 73rd Rule, L. A.

(f) *Sherwood on Private Bills*, p. 29.

4.—PETITIONS FOR PRIVATE BILLS.

Every private bill is based on a petition,^(a) which should state, in general terms, the objects or privileges sought to be obtained by the parties soliciting the bill and besigned by the parties themselves (the signatures of agents on behalf of others being inadmissible, except in case of incapacity by sickness) and at least one signature should be on the same sheet on which the petition is written.^(b) The petition is presented by a member in his place.^(c) Petitions should be prepared in triplicate, one copy being presented in each House by a member, and a third addressed to the Governor General in Council, through the Provincial Secretary. (A form of petition to each branch of the Legislature will be found in the Appendix No. III.) In 1859 a Bill to incorporate the Guelph and Wellington Roads

Every Private Bill based on a petition.

How presented.

(a) 58th Rule, L. A. Bills relating to local improvements are occasionally brought in, in the House of Commons, by order, without a petition, but are subsequently dealt with as private bills, as regards proof of compliance with standing orders, &c. May, p. 647.

(b) May, p. 479.

(c) 85th Rule, L. A.

Company, was sent down by the Legislative Council, and was subsequently referred to the Committee on Private Bills, who finding that it was not founded on a petition, reported that the preamble was not proved. In 1862, a Bill to separate the township of Broughton from the County of Megantic, and to annex it to the County of Beauce, which had been introduced as a public bill (under a public title), was referred to the Committee, who reported that it was not based on a petition, and could not therefore be treated as a private bill ; and no further proceeding was taken on the bill by the House.

Time of
presenta-
tion.

The petition must be presented within the first three weeks of the Session.^(d) It was formerly the custom to extend this time, by Resolution, to a very late period of the Session, but the injurious tendency of such an extension has become so evident, from the necessity it frequently involves of dispensing with those formalities which are so necessary for the protection of private rights, that of late years the Assembly has shewn an increasing unwillingness to extend the period. While in 1858, it was extended to 85 days from the commencement of the Session ; in 1859 and 1860, it was extended to 63, and in 1861 to 36 days only ; the latter being but 15 days beyond the time fixed by the Rule.

(d) 51st Rule, L. A.

When the time has actually expired, parties are at liberty to present a petition, asking leave to introduce their petition for a private bill, notwithstanding such expiry, and explaining the circumstances under which they have been prevented from complying with the orders of the House.^(e) It is competent then to the House, either to grant the requisite permission upon motion,^(f) or in accordance with the practice in the House of Commons,^(g) to refer the matter to the Standing Orders Committee, and take action upon their report.

After expiration of time.

(e) Niagara Harbour & Dock Co., 1851; Randall Estate, 1852-3.
Vide also Sherwood on Private Bills, pp. 10, 23.

(f) Assembly Journ., 1852-3, p. 347.

(g) May, p. 654.

5.—PROOF OF NOTICES,

BEFORE COMMITTEE ON STANDING ORDERS.

Examin-
ation of
petitions
without
reference.

All petitions for private bills, when received by the House, are taken into consideration (without special reference) by the Committee on Standing Orders, whose duty it is to ascertain whether the Rule of the House in regard to the publication of notice has been complied with in each case, and to report to the House the result of their inquiries; together with any recommendation that may appear to them desirable in cases where the notice may prove in any respect informal or insufficient.^(a) The committee has no power to inquire into the merits of any such petition, this being a duty which pertains to the Private Bill Committee in considering the preamble of the bill.^(b)

Private
Bills from
L. Council
examined.

All private bills from the Legislative Council (not being based on a petition already so reported on) are

(a) 55th Rule, L. A.

(b) Alpheus Todd's Report on Private Bills, 1847.

taken into consideration and reported by the committee after the first reading. ^(c)

In 1862, the Legislative Assembly (in pursuance of a recommendation of the Standing Orders Committee in their 10th Report) appointed the Chief Clerk of the Private Bill Office their "Examiner for Standing Orders," assigning to him the duty of examining into the facts with regard to the notice given on each petition, and reporting the same for the information of the Committee on Standing Orders. The committee are then enabled, upon the evidence reported to them, to decide upon each case. This corresponds with the course taken in the House of Commons; ^(d) it has been adopted, as yet, only by the Lower House, and is a step towards the assimilation of our Provincial practice to that of the two Houses of the Imperial Parliament for the joint proof of their Standing Orders. ^(e)

Examiner
for Stand-
ing Orders.

(c) 56th Rule, L. A. Toronto Boys' Home Bill, 1861, &c.

(d) Bristowe, pp. 10, 77.

(e) In 1854 the Lords adopted a most convenient arrangement which dispensed with a double proof of the Orders common to both Houses; they resolved on the appointment of examiners for Standing Orders for their Lordships' House, and appointed the same gentlemen who held the office of examiners of petitions in the House of Commons, who were thus enabled to take the evidence on the part of both Houses simultaneously: and in cases where any of the Orders have not been complied with, the Standing Orders Committee in each House determines, upon the facts reported by them, whether the same ought or ought not to be dis-

Proceedings in committees.

All questions arising in the committee are decided by a majority of voices; the chairman voting only when there is an equality of voices. In committees on private bills, the chairman votes as a member, and has also a second or casting vote when the votes are equal; but this power is specially conferred by a Standing Order of the House;^(f) such is also the case in Election Committees, as regulated by statute; but as regards other committees, in the absence of any special power, it is contrary to the practice of Parliament.^(g)

Sitting of committee.

The Standing Orders Committee usually appoint certain days for sitting, in the Private Bill Office when such petitions for private bills as have been received by the House, are laid before them. In cases where there is any doubt as to the sufficiency of the notice, the promoters of a petition appear before the committee, to produce such evidence as they may desire to offer.

Notices required in England.

While the requirements of the standing orders of the Lords and Commons, relating to private bills, involve notices in various forms, and the depositing

pensed with. "Of all the improvements," says May, "connected with Private Bill legislation, none have been so signal as those in which both Houses have concurred for the assimilation and joint proof of their standing orders." May, pp. 630, 631.

(f) 65th Rule, L. A.

(g) May, p. 371.

of plans, estimates, and other documents in some cases, ^(b) those of our Provincial Legislature, (*vide* Appendix I.) embrace (in all but Divorce cases) but one form of notice, *viz.*, by advertisement inserted in In Canada. the Canada Gazette, and also in some newspaper published in any locality that may be affected by the proposed scheme, clearly and distinctly specifying the nature and object of the application; if the matter relate specially to Lower Canada, it must be published both in English and French. This notice must be continued, not less than once a week, for a period of two months, during the interval of time between the close of the preceding Session, and the consideration of the petition by the committee. In the case of a proposal to erect a toll bridge, the notice must state the rates of toll to be demanded, the extent of the exclusive privilege, the height of the arches, the interval between the abutments of piers for the passage of rafts and vessels, and, when it is intended to construct a draw-bridge, the dimensions of the same. ⁽ⁱ⁾

(b) They are arranged in the following order:—1. Notices by advertisement. 2. Notices and applications to owners, lessees, and occupiers of lands and houses. 3. Documents required to be deposited, and the times and places of deposit. 4. Form in which plans, books of reference, sections, and cross sections shall be prepared. 5. Estimates and deposit of money and declarations in certain cases. May, p. 627.

(i) 53rd and 54th Rules, L. A.

In Divorce
cases.

When the application is for a Bill of Divorce, the notice is required by the Standing Orders of the Legislative Council (*vide* Appendix II.) to be published during six months in the Canada Gazette, and in two newspapers published in the District of Lower Canada, or County or Union of Counties in Upper Canada, where the applicant resides.^(j) A copy of such notice in writing must also be served on the person from whom such Divorce is sought, if the residence of such person can be ascertained ; and proof on oath of such service (or of the attempts made to effect the same), must be adduced before the Legislative Council on the reading of the petition.^(k) An exemplification of all proceedings that may have been had in any Court of Law, duly certified, must be presented at the same time.^(l) And in all cases where damages have been awarded to the applicant, proof on oath must be adduced that such damages have been levied and retained, or such explanation afforded for the neglect or inability to levy the same under a writ of execution, as may appear sufficient excuse for such omission.^(m)

The various notices required by the Rules of the two Houses having been thus referred to, it should be

(j) 75th Rule, L. Council.

(k) 76th Rule, L. C.

(l) 77th Rule, L. C.

(m) 78th Rule, L. C.

mentioned that they do not apply to all applications for private bills, indiscriminately, but to such only as involve the granting of exclusive rights or privileges, or a possible interference with the rights or interests of other parties.⁽ⁿ⁾ Thus petitions for the incorporation of religious, benevolent, social, literary, or educational institutions or associations,^(o) for the naturalization of aliens,^(p) for some individual or personal advantage not of an exclusive character,^(q) or for objects of a like nature, have usually been reported upon by the committee as exempt from the necessity of such notice; as have also applications for amendment of existing charters, when such amendment does not interfere with the rights of shareholders or others.^(r)

Certain applications exempt from notice.

(n) 53rd Rule, L. A.

(o) Toronto House of Industry, 1852-3; St. Mary's College, 1852-3; German Evangelical Church incorporation, 1854-5; Canadian Order of Odd Fellows, 1856; Woodstock Literary Institute, 1857; Montreal St. Andrew's Society, 1858; Toronto Horticultural Society, 1860; Montreal Skating Club, 1861; Toronto Savings Bank, 1861; Montreal Natural History Society, 1862, &c.

(p) Chaffee's naturalization, 1857; Steckel's naturalization, 1857. In the case of DeStoecklin's naturalization (1860), a suspension of the Rule relative to notice was recommended; and in those of Sanford and Rogers (1862), a Gazette notice was reported as sufficient.

(q) Mercer's relief, 1859; Poe's change of name, 1862.

(r) Montreal Cemetery Co., 1852-3; Niagara Bank (extension of time for paying up stock), 1857; Eastern Townships Bank (reduction of capital), 1858; Port Whitby & Lake Huron Railroad Co. (do.) 1859; Toronto Cotton Mills Co., 1862, &c.

Provision
in Bill, to
supply
want of
notice.

Petitions have occasionally come before the committee, seeking certain powers or privileges, which, though not "exclusive" or directly involving (in the words of the 53rd Rule) "any matter or thing which in its operation would affect the rights or property of other parties," might yet tend incidentally to affect the same. In such cases they have generally reported that notice was not required (under the terms of the Rule), but that provision should be made in the Bill for duly protecting all existing rights, &c. ;^(s) it then becomes the duty of the Private Bill Committee, when the bill comes before them, to see that it contains such a provision, before they report it to the House.^(t)

Evidence of
publicity,
when no
notice is
given.

In the fulfilment of their duty of examining into the notices given by the promoters of private bills in compliance with the 53rd and 54th Rules, the Committee on Standing Orders have generally been guided rather by the spirit than the letter of the requirement. In every case where the formal notice proves to have been insufficient, or to have been omitted altogether, they have admitted evidence to shew that all parties whose interests might be affected by the matter in question, have been fully informed of the intention to apply to

(s) Platt Estate, 1858; Montreal and Champlain Railroad amendment, 1860; Guelph debt consolidation, 1860; Montreal Bank amendment, 1861, &c.

(t) 66th Rule, L. A.

Parliament. In admitting the propriety of such a distinction in the interpretation of the Rules, it must nevertheless be remembered that parties at a distance who may be aware of an existing informality, may be led to suppose that it will be fatal to the measure and may therefore neglect to take any steps to oppose it, relying upon the House to carry out its own Standing Orders. This has in fact been the case in several instances, and a knowledge of it generally acts upon the committee in exercising their judgment as to the admissibility of evidence of this kind. When the committee have become satisfied in this manner concerning a notice thus technically defective or informal, they have in some instances taken upon themselves to waive the informality, and to report the notice as sufficient. Thus, publication of the proceedings at a public meeting called to consider a certain question,^(u) discussions in reference thereto in a City Council, reported in the local papers,^(v) or service of notice on the Shareholders of a Company individually,^(w) have been held to be a sufficient substitute for the notice required by the Rule. They have dispensed with the local notice in a matter affecting a remote and

Informality
waived, in
certain
cases.

(u) Three Rivers Diocese Church Rate, 1852-3.

(v) Montreal Corporation amendment, 1856; Montreal City Passenger Railway, 1861; Toronto incorporation amendment, 1862.

(w) Hamilton Hotel Co., 1856; Upper Canada Bank, 1862.

unsettled part of the Province,^(x) also, in the incorporation of Insurance Companies,^(y) Banks,^(z) and other companies not affecting any particular locality.^(a) They have also dispensed with notice in the Official Gazette in matters of a purely local nature,^(b) and with the French local notice in a matter relating to the Eastern Townships of Lower Canada,^(c) and the English local notice in one affecting a population of French origin.^(d)

Suspension
of Rule
relative to
notice.

The above cases must however be considered as altogether exceptional; while the committee may, in their discretion, interpret the Rules in the most liberal sense, they have no power to dispense with the formalities required by the House. When after due examination, they consider it desirable to relax these formalities in any particular case, they report the facts to the House, and recommend a suspension of the Rule. The

(x) Huron Copper Bay Co., 1849; Sault St. Marie Canal, 1852-3.

(y) British America Fire and Life Assurance Co., 1852-3, &c.

(z) Royal Bank of Canada, 1861, &c.

(a) In Companies of this nature, whose business is general rather than local, it is customary, when an amendment of their Charter is asked, to publish a local notice (in addition to that in the Official Gazette) in a newspaper circulating at the seat of their chief place of business.

(b) Iroquois School Section, 1858; Moulton Division, 1859; Co-bourg Manufacturing Co., 1859; Burford Survey, 1860.

(c) Iberville, Brome, Shefford, and Missisquoi Road, 1857.

(d) Joliette Mining Co., 1857.

principal grounds upon which a suspension has been recommended may be thus stated:—Evidence of consent of parties interested, ^(e)—That all parties have signed the petition, ^(f)—or are sufficiently apprized of the application, ^(g)—That the petition (in matters of a local nature) is very generally signed, ^(h)—That no private rights will be interfered with, ⁽ⁱ⁾—Proceedings in reference thereto at a public meeting, ^(j) or in City Councils, ^(k)—That the notice will have fully matured before any action can be taken on the bill by the Private Bill Committee, ^(l)—That the measure is one of great urgency, ^(m) or of great public utility or impor-

^(e) Galt Estate, 1860; La Banque du Peuple stock increase, 1861; Beauharnois Presbyterian Cong., 1861; Grand Trunk Railway, 1862.

^(f) Benson Estate, 1857; Cobourg Harbour Debentures, 1858; N. Halifax boundary line, 1859; McKay's will, 1861.

^(g) London and Port Stanley Railway (sale of land), 1858; Rouville division, 1859; Cobourg and Peterboro' Railway, 1862, &c.

^(h) Mitchell incorporation, 1857; Charlevoix Registry Office, 1858; Vespra and Sunnidale separation, 1859; Waterloo registration division, 1862, &c.

⁽ⁱ⁾ Woodstock Woollen and Cotton Manufacturing Co., 1860; Northern Railway amendment, 1860; South Eastern Mining Co., 1861; Huguenin's admission as notary, 1861.

^(j) Napanee incorporation, 1857.

^(k) Montreal incorporation amendment, 1854-5; Quebec Police, 1857; Toronto Street Railway, 1861.

^(l) Durham separation, 1860; Petroleum Springs Road Co., 1861.

^(m) Hamilton debt consolidation, 1861.

tance; ⁽ⁿ⁾ and even, in one or two instances, on the ground that a petition had been presented against the proposed bill, which appears to have been considered as evidence that its opponents were sufficiently informed of the application.

No suspension until committee has reported.

Up to the year 1856, it was occasionally the practice for the House to suspend, in a particular case, the Rule relative to Notice, upon a motion to that effect, without any previous action on the part of the Standing Orders Committee; but in that year the committee made a Report, representing that the practice of indiscriminately dispensing with these Notices must have a most injurious tendency, and suggesting that in future no motion for suspending the Rule in any special case be passed until the matter in question should have been favorably reported on by the committee; ^(o) this being acceded to by the House, was acted upon for the remainder of that Session. A similar recommendation made in the following year, was modified by the House so as to provide that no motion for suspending the Rule in favor of any petition be entertained, until the committee shall have reported on the subject, favorably or

⁽ⁿ⁾ Transmundane Telegraph Co., 1859; St. Lawrence Navigation Co., 1861; North West Navigation and Railway Co., 1862.

^(o) Assembly Journ., 1856, pp. 351, 362.

otherwise ; ^(p) and this has since been incorporated into the Standing Orders. ^(q)

When, in any case, the notice, upon examination, proves to be insufficient, it is so reported to the House, and (unless accompanied by a recommendation to suspend the Rule) all further action in the matter is dropped ; the decision of the committee being rarely overruled by the House. ^(r) One case is recorded in the Journals of the Assembly in which the committee having reported the notice incomplete, recommended that it be *not* dispensed with. The House nevertheless suspended the Rule, and referred the petition back to the committee, who subsequently reported favorably, and a bill was introduced. ^(s)

In judging as to the sufficiency of a notice submitted for their examination, the committee compare its terms with those of the petition, and any important variance or omission in the former is fatal either to the whole measure, or to a particular provision therein, as the case may be. In some instances the notice (though published in the prescribed manner in other respects) has been unfavorably reported on because it did not sufficiently indicate the objects sought to be

Insufficient
notice to be
reported.

Notice must
be specific
and clear.

(p) Assembly Journ., 1857, pp. 243, 245.

(q) 57th Rule, L. A.

(r) May, p. 653.

(s) Huntingdon Plank Road Co., 1846.

Notice must be specific and clear. attained. ^(t) This was the case with a petition for an amendment to the act incorporating the Galt & Guelph Railway Company in 1858 ; on examining the petition, the amendment was found to embrace a provision for giving the holders of certain bonds issued by the Company before mortgaging their road to the Great Western Railway Company, a remedy against the last mentioned company, and this not having been mentioned in the notice, it was pronounced insufficient. ^(u) In another instance, ^(v) upon an application for amendments to the Act dividing Chatham into two municipalities, the notice simply mentioned the Chapter of the Act (19 & 20 Vic. cap. 105), without mentioning the subject, and this was pronounced insufficient. In the same Session the committee called the attention of the House (in one of their reports) to the utter insufficiency of a notice given in this form, and recommended "that in future, no notice be considered sufficient that does not clearly indicate the nature and subject of the application." ^(w) This recommendation

(t) St. Lambert Municipality, 1861.

(u) In a subsequent Report, five weeks later, the committee stated that the notice had since been amended, and advertised in its amended form for 3 weeks; and they recommended that the Rule be suspended: this was done accordingly, and a bill presented but it was not proceeded with.

(v) Chatham division, 1860. Also, Murray gravel roads, 1862; Colborne gravel roads, 1862.

(w) Assembly Journ., 1860, p. 126

has been acted upon by the committee ever since; and in 1862 the 53rd Rule was so amended as to require every notice to be of this character.

If the notice be found too general in its terms, or if no mention be made of certain matters included in the petition which require a specific notice, the facts are specially reported, and the promoters restricted, in the details of the bill, within the terms of the notice ;^(x) or if the matters so omitted are allowed to be inserted in the bill, due provision is made therein for the protection of all parties whose rights might be affected by the want of a specific notice.^(y) If the notice have been given in one District only, the operations of the petitioners are confined to that District.^(z)

In one case ^(a) the committee reported that the notice ought not to be dispensed with, but that a bill might be introduced for the relief of the petitioner, by extending in his favor the time for appealing against a decision of the Trinity Board. The bill was accordingly introduced, but was subsequently dropped. In another case ^(b) the committee reported that a charter

(x) Port Hope Harbour, 1854-5; Vaudreuil Railway, 1854-5; St. Lawrence and Bay Chaleurs Land Co., 1857; Brockville and Ottawa Railway, 1860; Onslow Survey, 1862; Preston and Berlin Railway, 1862.

(y) Montreal City Loan, 1862.

(z) St. Lawrence Mining Co., 1854-5.

(a) Malcolm Smith, to be reinstated as a pilot, 1859.

(b) North-west Transit Co., 1861; and again in 1862.

proposed to be amended had become void by *non user*; and the House justified the report by taking no further action in the matter.

Petitions
referred
back.

After an unfavorable report from the committee, the House has, in a few instances, ^(c) referred petitions back to the committee, with an instruction to consider and report as to the expediency of suspending the Rule. In one case only ^(d) was their report favorable; and though in this instance the Rule was suspended, and a bill introduced, it was subsequently abandoned.

Further
Report,
amending a
former one.

It has occasionally happened, that after certain petitions have been unfavorably reported on, further evidence has been produced, sufficient to satisfy the committee. In such cases they have made a further report, amending the former one, and representing either that the notice has since been continued so as to complete the full time required, ^(e) or that it has been amended so as to meet the requirements of the Rule, ^(f) or that the evidence subsequently adduced proves that the notice was sufficient for all parties concerned. ^(g)

(c) Reach road allowance, 1856; Elora incorporation, 1856; Turner's contract on Brant Gaol and Court House, 1856.

(d) Elora incorporation, 1856.

(e) Hamilton & Amherstburg Railway, 1854-5; Peterborough School Trustees, 1857.

(f) Galt & Guelph Railway amendment, 1858.

(g) British Farmers' Union Insurance Co. of Brantford, 1859.

6.—PRESENTATION AND FIRST READING OF BILL.

When a petition has been favorably reported on by the Committee on Standing Orders, a bill may be at once introduced, upon a motion for leave <sup>Present-
tation of
Bill.</sup> (a) (preceded, when the same is required by the Report, by a motion to suspend the Rules). After its introduction it is read, *pro formâ*, and a day appointed for the second reading. The bill must be prepared by the promoters, in the English and French languages; before the second reading, it is printed (at their expense) by the Parli- ^{Printing.}mentary contractor, and 350 copies in English (with 200 in French also of such as relate to Lower Canada)^(b) deposited in the Private Bill Office. ^(c)

(a) 58th Rule, L. A. Members of the Legislative Council exercise the right of bringing in bills, in that House, *without* a motion for leave, in analogy with the practice in the House of Lords. May, p. 421.

(b) The printing of the French version is occasionally dispensed with in bills concerning some locality within the Eastern Townships of L. Canada.—St. Francis Bank Bill, 1854-5: Eastern Townships Bank Bill, 1854-5, &c.

(c) 60th Rule, L. A.

Rates and
tolls, in
italics.

The amount of any rates, tolls, fees or fines inserted in the bill, must be printed in *italics*; these are technically regarded by the House as blanks, to be filled up by the committee on the bill, and are so inserted merely to shew the amount intended to be proposed. ^(d)

Bills for
confirming
letters
patent.

When any bill for confirming letters patent is presented, a true copy of such letters patent must be attached thereto. ^(e) A bill of this kind having been referred to the Private Bill Committee in 1857, they reported that they could not recommend that it be passed, because no copy of the letters patent was attached. The omission was, however, rectified by the House, a copy of the letters patent being attached to the bill in committee of the whole, and it finally received the Royal Assent. ^(f)

Bills in-
formally
introduced.

If a bill has been informally or irregularly introduced (*i. e.* prior to the presentation of a petition or to the Report of the Standing Orders Committee on such petition), it may be withdrawn, with the leave of the House, and a new bill be presented in the proper course. ^(g)

Private bills must be presented within the first 4

(d) May, p. 655.

(e) 59th Rule, L. A.

(f) Bessemer's Patent Bill, 1857.

(g) Halifax Townships Bill, 1859; Rouville Division Bill, 1859.

weeks of the Session ; ^(h) —but this period is generally extended to correspond with a like extension in favor of petitions. (*Vide supra*, p. 14.)

Time of
presenta-
tion.

(h) 51st Rule, L. A.

7.—SECOND READING OF BILL.

Time for
second
reading.

Private Bills on the Orders of the Day are called up on Mondays, immediately after the daily routine of business ; on Tuesdays and Fridays the precedence is given to Government Orders, Private Bills following next on the list ; while on Thursdays they are placed at the foot of all Orders. ^(a)

Principle
affirmed
condition-
ally at se-
cond read-
ing.

The second reading corresponds with the same stage in other bills, and in agreeing to it, the House affirms the general principle, or expediency of the measure, with this distinction, however,—a public bill being founded on reasons of public policy, the House, in agreeing to its second reading, accepts and affirms those reasons : but the expediency of a private bill being mainly founded upon allegations of fact, which have not yet been proved, the House, in agreeing to its second reading, affirms the principle of the bill conditionally, and subject to the proof of such allegations before the committee. Where, irrespective of such facts, the principle is objectionable, the House will not

(a) 19th Rule, L. A.

consent to the second reading. If the second reading be deferred for three or six months, or the bill be rejected, no new bill can be offered until the next Session. ^(b)

It may be questioned whether an opposition to a private bill on the second reading is consistent with fairness or propriety, unless it be on some point of privilege or of form, or on the assumption that the principle of the proposed measure is objectionable on grounds of public policy. ^(c) Opposition has rarely been offered in Canada at this stage of the bill. Upon four occasions only, has counsel been heard at the Bar against the second reading of private bills. ^(d)

Every private bill, when read a second time, is referred to the Standing Committee on Private Bills, or to the Standing Committee on Railways, Canals, and Telegraph lines, or to some other Standing Committee of a like nature : and all petitions for or against the

(b) May, p. 657.

(c) Sherwood, p. 37. The Street Rail Com'y. Bill was thrown out on the second reading, in the House of Commons, 16th April, 1861, on notice being taken that it trenched on public rights. In England it is the duty of the Chairman of Committee of Ways and Means, under a standing order, to call the attention of the House to all such cases. Hansard's Debates, vol. 162, p. 641.

(d) University of Toronto (King's College) Bill, (a Ministerial Private Bill), 1843, 1844-5, and 1846; Montreal Consumers' Gas Co. Bill, 1846.

bill ^(e) stand referred to such committee. ^(f) No bill, of which notice is required to be given under the 53rd Rule, can be considered, after such reference, in the House in which such bill originates, until after a week's notice of the sitting of the committee, affixed in the lobby. In the case of bills received from the other House, the notice required is 24 hours only. ^(g) Bills not requiring notice under the 53rd Rule may be considered at any time after reference.

Divorce
Bills.

An exception to this practice is made in Divorce Bills (which are sent down from the Legislative Council). They are referred to a selected committee, in place of the Standing Committee on Private Bills. ^(h) The evidence taken before the Legislative Council (a copy of which is applied for, and communicated, by message) is referred to the committee, with power to send for persons and papers, and usually, to hear counsel. ⁽ⁱ⁾ The committee give a week's notice of their sitting, as in the case of other private bills.

(e) Petitions in favor of, or against private bills, are not presented in the House of Commons in the usual way of present petitions, but are deposited in the Private Bill Office; and all such as are deposited within a certain time after the second reading of the bill, stand referred to the committee. May, p. 668.

(f) 61st Rule, L. A.

(g) 62nd Rule, L. A.

(h) In the House of Commons, they are referred to "The Select Committee on Divorce Bills." May, p. 730.

(i) Harris' divorce Bill, 1844-5; Beresford's do., 1852-3; McLean's do., 1858; and again in 1859.

8.—PAYMENT OF FEE AND CHARGES.

Immediately after the second reading, and before the consideration of the bill by the committee, the fee and all other charges thereon, must be paid into the Private Bill Office. This however applies only to bills “giving any exclusive privilege, or for any object of profit, or private, corporate, or individual advantage; or for amending, extending or enlarging any former Acts in such manner as to confer additional powers.” On all such bills a fee of \$60 is levied, and they are charged with the expense of printing 350 copies in English (and 200 in French of such as relate to Lower Canada) and also with the cost of printing 500 copies of the Act in English and 250 in French, with the Provincial Statutes: this last item is subsequently refunded if the bill should fail to become law.^(a) If the bill has not been prepared in both languages, it is charged with the cost of translation: and any additional expense incurred, for re-printing the bill in an

Fee payable
after second
reading.

Limitation.

(a) 60th Rule, L. A.

amended form, or for printing schedules of tolls or other papers connected therewith, must be defrayed by the promoters. The Fee is payable only in the House in which the bill originates, and the charges for printing are made in the House in which they may be incurred. On Divorce Bills (which originate in the Upper House) a fee of \$80 must be deposited in the hands of the Clerk of the Legislative Council at the time of presenting the petition. ^(b)

The inadequacy of this Fee for the more important class of private bills, as those relating to Banks, Insurance companies, and other commercial corporations, or to Railways, Telegraph lines, and other extensive undertakings, involving a large amount of capital, is most evident. In 1854-5, the Standing Committee of the Assembly on Contingencies reported a recommendation that the amount should be increased upon all private bills to \$200; ^(c) and in 1862, the Committee on Private Bills reported ^(d) in favor of a scale of fees, adopting the existing rate (\$60) as the *minimum*, and charging 2 rates on bills for raising or expending a sum amounting to \$200,000 and under \$400,000,—3 rates when amounting to \$400,000 and

Fee payable
in one
House only.

Increase of
fee in cer-
tain cases
recom-
mended.

(b) 86th Rule, L. C.

(c) Assembly Journ., 1854-5, p. 358.

(d) 18th Report of Committee on Private Bills, L. A., 1862.

under \$600,000, and so on in proportion;—but no action was taken by the House on either Report. ^(e)

In a few instances the fee has been refunded upon the recommendation of the Private Bill Committee, on the ground that the bill was abandoned by the promoters for lack of time to proceed with it, ^(f)—that it amends an Act of the present Session on which the fee was already paid, ^(g)—that there were legal difficulties in the way of its passing, ^(h)—that the bill has been laid aside, and a general Act substituted, ⁽ⁱ⁾—or that the amendments to the charter of an Insurance Company, were rather for the advantage of the insurers than of the company. ^(k) More frequently the fee has been refunded without the recommendation of the committee, by a motion to suspend the Rule,

Refunding
of fees.

(e) In the House of Commons, every bill “for the particular benefit of any person or persons” is deemed a private bill within the meaning of the Table of Fees; and a fee is charged at each stage of the proceedings on the petition and bill, of like amount in all cases, except that when the amount to be raised or expended is £50,000 and under £100,000, the fees payable at the 1st, 2nd, and 3rd readings (£45 in all) are doubled,—if between £100,000 and £200,000, they are tripled,—and so on in proportion. Fees are also paid by the opponents of a bill, on presenting a petition against it. Bristowe, pp. 135 to 137.

(f) St. Lawrence Mining Co. Bill, 1852-3.

(g) Guelph lands trust Bill, 1854-5.

(h) Ayr dam and water-course Bill (J. Watson), 1856.

(i) Various bills for admission of attorneys to practise, 1857.

(k) Provincial Insurance Co. Bill, 1858.

though the attempt has not always been successful. It might be better (for the sake of equal justice to all) that all motions of this kind should be referred to the committee on the bill, before they are finally decided ; a principle already adopted in regard to motions for suspending the Rules relative to Notice. (*Vide supra*, p. 26.)

9.—COMMITTEES ON PRIVATE BILLS, AND THEIR POWERS.

It has been already stated that all private bills, after the second reading, are referred either to the Standing Committee on Private Bills, or to that on Railways, Canals, and Telegraph lines, or to some other Standing Committee of a similar character. These committees are appointed early in the Session, and continue in existence until its close. ^(a) They each consist of a large number of members, who are nominated by a committee of selection (for all standing committees), and the nomination confirmed by the House. At their

(a) This differs from the practice in the House of Commons, where all railway and canal bills are referred to the "General Committee on Railway and Canal Bills," and all other private bills to the "Committee of Selection." The bills are classified in groups by these committees, who severally nominate special committees to consider each group, with one of their own members as chairman. (May, p. 659.) Each member of the committee on an opposed bill is required to sign a declaration that his constituents have no local interest, and that he has no personal interest in the bill, &c. (*Id.*, p. 666.)

first meeting they proceed to elect a chairman. The quorum consists of a majority of the members, though of late years it has been customary for each committee, after its organization, to make a report recommending a reduction of the quorum,^(b) which has been concurred in by the House. Members may be subsequently added by the House.

Instruc-
tions.

Instructions may be given to these committees by the House, concerning particular bills, or other matters.^(c) The Standing Committee on Railways was in 1852-3, instructed to consider the expediency of amending the Bill for empowering the Great Western Railroad Company to construct a railroad from Hamilton to Toronto, so as to authorize them to construct a branch railway from their line to Port Dalhousie, and they reported the bill with an additional clause providing for the said branch.^(d) The committee was again instructed in 1854-5, to enquire into the expediency of establishing a branch telegraph in the Parliament House; which was subsequently effected, upon their report.^(e) There are some general instruc-

(b) In 1861, the quorum of the Private Bill Committee was, in this manner, fixed at *seven* members, and that of the Railway Committee at *nine*.

(c) May, p. 696.

(d) Assembly Journ., 1852-3, pp. 290, 340.

(e) Do. Do., 1854-5, pp. 177, 197, 229.

tions given by Standing Orders of the House, con- Instructions.
 concerning all private bills, *viz.*;—to call the attention of
 the House to any provision that does not appear to
 have been contemplated in the notice, as reported on
 by the Committee on Standing Orders ;^(f)—to require
 proof in every case that the persons whose names
 appear in a bill for incorporating a company are of
 full age, and in a position to effect the objects contem-
 plated, and have consented to become incorporated. ^(g)
 And in bills for confirming letters patent, the com-
 mittee is required to see that there is a true copy of
 the letters patent annexed to the bill, as required by
 the 59th Rule.^(h) Certain specific instructions are
 given by Standing Orders of the Houses of Lords and
 Commons, to committees on all Railway Bills,⁽ⁱ⁾ the
 object of which, is no doubt to a certain extent attained
 in this Province, by the provisions of the General
 Railway clauses consolidation Act. There are also
 certain general instructions on all bills relating to
 Inclosure and Drainage, Turnpike Roads, Cemeteries
 and Gas Works, and Divorce cases. ^(k)

The committee has no power to entertain questions in

(f) 66th Rule, L. A.

(g) 64th Rule, L. A.

(h) May, p. 681.

(i) Bristowe, p. 23.

(k) Bristowe, p. 26.

No power to inquire into Standing Orders. reference to the compliance with the Standing Orders⁽¹⁾ (which pertains solely to the Standing Orders Committee) unless by special order from the House. This order is only given when the House, on the report of the Standing Orders Committee, allow parties to proceed with their bill on complying with certain standing orders which they had previously neglected.^(m) In ordinary cases the committee merely inquire whether the Orders of the House have been complied with; and in cases where a special report has been made by the Standing Orders Committee in reference to the extent of the notice, it is compared with the powers and privileges conferred by the bill, and if they appear to exceed the limits of the notice, the fact is specially reported to the House.⁽ⁿ⁾

Bill must agree with the notice proved.

Examination, &c., of witnesses. The committee has power to send for persons and papers, and to examine witnesses, but not upon oath (the expenses of such witnesses being defrayed by the parties in whose interest they have been summoned). The power to examine witnesses upon oath has by a recent enactment,^(o) been conferred upon select committees of the House of Commons to which any private bill may be referred; and any person so examined who shall wilfully give false evidence, is liable

(1) Sherwood, p. 46.

(m) May, p. 674.

(n) 66th Rule, L. A.

(o) Imp. Act, 21 and 22 Vict., c. 78.

to the penalties of perjury. The important interests occasionally involved in private bills before our Provincial Legislature, render it perhaps desirable that a similar power should be conferred on the committees appointed to consider them. In 1856 the Committee on Private Bills made a report recommending that a bill be passed for this purpose. A bill was accordingly introduced in the Assembly "to enable the Standing Committees on Private Bills of the Legislative Council and Assembly, to examine witnesses on oath," but the bill was referred to a select committee, who made no report. ^(p) In the following year, a bill was introduced "to authorise the Legislative Council and Assembly, and the committees thereof respectively, to examine witnesses on oath;" but this bill was negatived at the second reading. ^(q) Since that time nothing has been done upon the subject.

In all questions arising before the committee, the chairman votes as a member, and whenever the voices are equal, he has a second or casting vote. ^(r) This provision was introduced in the revised code of Rules adopted in 1860, and is expressly limited to committees on private bills (including the Standing Committee on Private Bills, and that on Railways, and any other

Casting
vote of
chairman.

(p) Assembly Journ., 1856, pp. 498, 508, 559.

(q) Do. Do., 1857, pp. 31, 191.

(r) 65th Rule, L. A.

committee to whom private bills may be referred) ; it is based on the practice of the House of Commons. ^(s) The Controverted Elections Act of Canada confers the same power on the chairman of an election committee. ^(t)

Every member should vote.

Every member present in the committee should vote on all questions brought up, judging from the analogy of the practice of the House in this respect, ^(u) and that of Election Committees under the provisions of the above mentioned Act, though in the absence of any express rule or order it may be questioned whether the committee has power to compel a member to vote who declines to do so. ^(v)

Cannot sit during sitting of House.

The committee cannot sit during the sitting of the House ; all proceedings are void after announcement that the Speaker is in the Chair. ^(w) Leave has, however, in two instances, been granted to the Committee on Private Bills to sit during the morning sittings of

^(s) May, p. 371.

^(t) Consol. Stat. of Canada, Chap. 7, sec. 89.

^(u) May, p. 325.

^(v) Frere has some excellent remarks upon this question ; but the difference in the constitution of committees on private bills in the House of Commons, renders these remarks less applicable to the Standing Committees on private bills in this province. Frere, p. 75,—and again, on p. 84.

^(w) Sherwood, p. 45.

the Legislative Assembly,—once in 1858, ^(x) for one occasion only, and again, in 1860, ^(y) for the residue of the Session. ^(z)

(x) Assembly Journ., 1858, p. 658.

(y) Assembly Journ., 1860, p. 311.

(z) By a Standing Order of the House of Commons, 21st July, 1856, it is ordered "That on Wednesdays and other morning sittings of the House, all committees shall have leave to sit, except while the House is at prayers, during the sitting, and notwithstanding the adjournment of the House." And to avoid interruption to urgent business before committees, leave is frequently obtained, on the meeting of the House in the afternoon, for a committee to sit till 5 o'clock. May, p. 378.

10.—PROCEEDINGS IN COMMITTEE ON BILL.

Order of
considera-
tion.

At each sitting a list of the bills which are ready for consideration is laid before the committee, in the order of their reference; and they are usually taken up in that order, unless it may be otherwise agreed upon, for the convenience of parties in attendance. In the case of opposed bills, it is customary for the parties to come to an arrangement in the Private Bill Office for the selection of a particular day for the consideration of a bill in which they are interested; and the bill, in such a case, takes precedence of all other bills appointed for that day: where no such arrangement is made, the bill is taken up in its order. It has been stated above, that no bill of which notice by advertisement is required by the Rules, can be considered (in the House in which such bill originates) until a week's notice has been given by the committee.^(a) This notice is generally reduced by the House,

Notice re-
quired in
certain
cases.

^(a) 62nd Rule, L. A.

near the close of the Session, to 2 or 3 days,^(b) and in some instances it has been dispensed with altogether, upon special motion;^(c) the propriety of this course, however, has been much questioned, on the ground of the wrong inflicted on parties who may desire to oppose any such bill, and for whose protection this notice is intended; and a suspension of the Rule in this behalf is now extremely rare, being made only in urgent cases.

Parties desirous of opposing any bill before a committee, either on the preamble or the details, present a petition, stating the grounds of their opposition.^(d) Opponents should present a petition.

No such petition can be entertained that does not

(b) Assembly Journ., 1857, p. 423; 1858, p. 907; 1859, p. 271; 1860, pp. 232, 311; 1861, p. 216.

(c) Colonial Bank Bill, 1858; Oshawa incorporation Bill, 1859; Peterboro' and Victoria land tax Bill, 1860, &c. And on 28th May 1862, the Rule was suspended altogether for the residue of the Session.

(d) In the House of Commons (as has already been stated) all petitions in favor of, or against, or otherwise relating to private bills (except the original petition for the bill, and petitions for additional provisions), are now presented by depositing them in the Private Bill Office. Every petition against a private bill, deposited not later than 7 days after the second reading, stands referred to the committee. Petitioners will not be heard before the committee unless their petition has been prepared and signed in strict conformity with the rules and orders of the House, and has been deposited within the time limited, except where they complain of any matter which may have arisen in committee, or of any proposed amendment, or additional provision. May, pp. 668, 669.

distinctly specify the grounds on which the petitioners object to the bill or any of its provisions. The petitioners can only be heard on the grounds so stated, and if the same are not specified with sufficient accuracy the committee may direct a more specific statement to be given in writing, but limited to the grounds of objection which had been inaccurately specified.^(e) No petitioners will be heard against the preamble, unless in their petition they pray to be heard against it.^(f) If no parties, counsel, or agent, appear on behalf of a petition when it is read, the opposition of the petitioner is held to be abandoned.^(g) It is right, however, to state, with regard to these restrictions, that although strictly speaking they apply to all opposed bills, they are never fully enforced by the committee, unless the circumstances of the case appear to require it.

And fyle
appearance.

Counsel.

The promoters of a bill may be heard by counsel if they desire it.^(h) Petitioners against the preamble or

(e) May, p. 670.

(f) Bristowe, p. 28.

(g) Bristowe, p. 27.

(h) A Parliamentary Agent appearing before a committee of the H. of Commons for a private bill (or upon a petition against a bill containing a prayer to be heard by counsel) is always called on by the committee clerk to hand in the names of two counsel, though the number of counsel who may be heard is not limited to these.—Evidence of G. L. Smith, Esq., Parliamentary Agent,—appended to the 3rd Report from the Committee of the H. of Commons on Private Bills, 1847. (Ans. to Ques. 948.)

any of the clauses may be heard by counsel, if, in their petition, they have prayed to be heard by themselves, their counsel, or agent. ⁽ⁱ⁾ No member can act as counsel before the House or before any committee; nor can any member of either House act as counsel before the other House, on any bill depending therein, without special permission: when such permission is given, it is understood that the gentlemen who receive it would not be permitted to vote on such bill, if it should be received by the House of which they are members. ^(j) This permission has in a few instances been given to members of the Assembly, ^(k)—and once only to a member of the Legislative Council. ^(l)

To what extent members may act.

A filled up copy of the bill, containing the amendments proposed to be submitted by the promoters, must be deposited in the Private Bill Office, one clear day before the consideration of the bill. ^(m) All parties

Filled up copy of Bill to be filed.

(i) Standing Orders of H. of Commons rel. to Private Bills, 85.

(j) May, p. 344.

(k) Leave was granted by the Legislative Assembly to the Hon. T. C. Aylwin, in the session of 1844-5, to appear at the Bar of the Legislative Council as counsel on the Naturalization Bill (Donegani's),—and to Messrs. Ross & Cauchon, in 1850, on the Dorchester Bridge Bill. Assembly Journ., 1844-5, p. 408; 1850, p. 261.

(l) Leave was granted by the Legislative Council, in 1843, to the Hon. Mr. Draper, to appear at the Bar of the Legislative Assembly as Counsel on the Bill relating to the University of Toronto. Council Journ., 1843, p. 104.

(m) 63rd Rule, L. A.

are entitled to obtain a copy thereof upon payment of the charges for making out the amendments. ⁽ⁿ⁾

Preamble
read.

When the committee are about to proceed to the consideration of a private bill, the parties are called in, and the preamble is read ; this being different from the practice in regard to public bills, the preamble of which is postponed until after the consideration of the clauses. ^(o) (Instances may however, arise, in which the committee may feel it desirable that they should reserve their judgment upon the preamble until certain details of the bill have been settled : in such a case they postpone the preamble until after the consideration of the clauses ; but this is of very rare occurrence.) The petitions against the bill are then read, and appearances entered upon each petition with which the parties intend to proceed. ^(p)

⁽ⁿ⁾ May, p. 666.

^(o) This course is adopted in regard to public bills, because the House having affirmed the principle of the bill on the second reading, it becomes the duty of the committee not to discuss the principle again upon the preamble, but to settle the clauses first, and then to consider the preamble in reference to the clauses only. (May, p. 442.) Whereas in agreeing to the second reading of a private bill, the House has affirmed the principle conditionally, and subject to the proof of the allegations contained in the preamble, before the committee. (*Ib.* p. 658.) *Vide* remarks on this subject under "Second reading of Bill,"—*supra*, p. 34.

^(p) May, p. 683.

The promoters (or their counsel) first state their case on the preamble, and then (if required) proceed to call witnesses, and to examine them. At the conclusion of this examination, when the counsel or agent for any petitioner rises to cross-examine a witness, is the proper time for taking objections to the *locus standi* of such petitioner.^(q) It is necessary that a petitioner should state the manner in which his interest is affected, in order that he may obtain a *locus standi* at all in opposition to the measure; but the grounds of objection to the bill on which he may be heard in support of such opposition, are not confined to those arising immediately out of his private interests.^(r)

Promoters
heard.

Locus standi of petitioners.

If the committee decide in favor of his *locus standi*, he may address the committee, and produce his witnesses, and they in their turn are cross-examined by the counsel for the promoters, who has the right to reply.^(s) The committee may, if they please, hear petitioners against a bill on the ground of competition; ^(t) but shareholders of a company promoting a

(q) Petitioners are said to have no *locus standi* before a committee, when their property or interests are not directly and specially affected by the bill, or when, for other reasons, they are not entitled to oppose it. May, p. 685.

(r) Frere, p. 32.

(s) Bristowe, p. 28.

(t) May, p. 689.

bill are not heard in opposition unless their interests be distinct from that of the company. ^(u)

A petitioner whose interest is affected only by particular clauses in the bill, which are immaterial to the main objects of the measure, and are not referred to in the preamble, would have no right to be heard against the preamble, but only against such clauses. ^(w)

Members
required as
witnesses.

• If the attendance of a member of the House be required as a witness, the proper course is for the chairman to write to the member requesting his attendance: if he refuse to attend, the fact is reported to the House, in order that they may take such steps in the matter as they see fit. ^(x)

Expenses of
witnesses.

A witness has a right to claim that his expenses be paid or guaranteed, before his examination. A witness cannot correct his evidence, except by a subsequent examination. ^(y)

Room
cleared for
discussion.

When counsel are addressing the committee, or while witnesses are under examination, the committee room is an open court; but when the committee are about to

(u) May, p. 690.

(w) Frere, p. 33.

(x) Frere, p. 70. A Peer of Parliament cannot be compelled to attend a committee of the Commons, but if he attend voluntarily, it is not necessary that a message be sent to the Lords requesting his attendance, as is the case in committees on public matters. *Ib.*, p. 71.

(y) Frere, p. 72.

deliberate, all the counsel, agents, witnesses, and strangers are ordered to withdraw, and the committee sit with closed doors. When they have decided any question, the doors are again opened, and the chairman acquaints the parties with the determination of the committee, if it concern them. ⁽²⁾

Members of the House who are not on the committee, have a right to be present during the examination of witnesses, but not to interfere in the proceedings. ^(a) It is doubtful how far the committee has a right to exclude them from the room when cleared for discussion, but it is always customary for them to retire.

Right of members of the House to be present.

If any member insist on his right to remain, against the wish of the committee, their only course is to report the circumstances of the case to the House. ^(b) If a member of the House be under examination as a witness, and the matter under consideration shall have arisen out of his evidence, the right of the committee to exclude him from the room during the discussion, is less doubtful. ^(c)

A member under examination.

(2) May, p. 682.

(a) By a Standing Order of the House of Lords, all Peers are entitled to attend the select committees of that House, and they are not excluded from speaking (though they be not of the committee), but they may not vote. May, p. 367.

(b) Frere, p. 74.

(c) The India Judicature Committee (House of Commons), in 1782, having cleared the room to deliberate on the refusal of Mr.

Question put on preamble. When the arguments and evidence upon the preamble have been heard, the room is cleared, and a question is put "That the preamble has been proved," which is resolved in the affirmative or the negative, as the case may be: ^(e)—If in the negative, the committee report to the House "That the preamble has not been proved to their satisfaction." After this decision, it is not competent for the committee to re-consider and reverse it, but the bill should be re-committed for that purpose. ^(f)

Preamble not proved.

The Commons' Orders do not require any reasons to be assigned by the committee for thus deciding against the further progress of the bill, though the necessity for such information, to enable the House to determine upon their Report, is obvious. ^(g) A different course

Barwell to answer certain questions, he insisted on his privilege, as a member of the House, of being present during the debate. The committee objected that as a party concerned in the matter under discussion, he had no right to be present. Mr. Barwell still persisting in his right, two members attended the Speaker, and returned with his opinion that Mr. Barwell had no right to insist upon being present during the debate, upon which he withdrew. The House subsequently ordered "That when any matter shall arise on which the said committee wish to debate, it shall be at their discretion to require every person not being a member of the committee to withdraw." May, p. 367.

(e) May, p. 695.

(f) May, p. 696.

(g) Alpheus Todd's Report on Private Bills, 1847.

has prevailed in Canada, (which has been made a ^{Reasons} Standing Order in the last revision of the Rules), ^{assigned.} (h)—the committee invariably stating, in a few words, the grounds of their decision. Of these may be instanced,—That no evidence was offered in favor of the preamble, ⁽ⁱ⁾—Insufficient information or contrary evidence, ^(k)—No proof that the parties to be incorporated desire such incorporation, ^(l)—No proof that the majority of those whose interests would be affected are in favor of the scheme, ^(m)—That the petitioners against the measure are as numerous as those in its favor, ⁽ⁿ⁾ or are more numerous, ^(o)—That there is great difference of opinion in the locality affected, as to the expediency of the measure, ^(p)—That the statement of facts set forth in

(h) 68th Rule, L. A.

(i) River du Chêne Bill, 1852-3; Gatien estate Bill, 1857.

(k) Small's Pickering road allowance Bill, 1852-3; Clarke Survey Bill, 1857; Notre Dame du Portage Municipality Bill, 1859; Onslow Survey Bill, 1862.

(l) Bill to incorporate the Benevolent Societies of the Wesleyan Church, 1850; Guelph and Wellington Roads Co. incorporation Bill, from L. Council (no petition having been presented), 1859.

(m) Hull Presbyterian Church Bill, 1856; Quebec limits extension Bill, 1860; Lennox and Addington separation Bill, 1860.

(n) Whitby division Bill, 1857.

(o) Grey and Simcoe division Bill, 1857; Bolton incorporation Bill, 1858; Durham School section Bill, 1859.

(p) Ayr incorporation Bill, 1857; Halifax township Bill, 1860.

Preamble the preamble has been disproved,^(q)—That legislative
not proved. interference is not desirable or necessary,^(r)—That it
would interfere with law-suits pending,^(s) or with exist-
ing rights,^(t)—That the powers sought for would not
advance the interests of the locality,^(u)—That the bill
provides for an extension of the powers of a certain
company to purposes entirely foreign to its original
charter,^(v)—That it contains most unusual provis-
ions,^(w)—That the filled-up bill submitted to the com-
mittee differed materially from the printed bill as origi-
nally referred to them, and was not in accordance with
the petition,^(x)—or, That it is in the power of the
Executive Government to carry into effect the objects

(q) Barton road allowance Bill, 1852-3.

(r) East Hawkesbury survey Bill, 1856; Clarke survey Bill, 1856; Van Norman estate Bill, 1857; Delaware survey Bill, 1857; York and Peel separation Bill, 1861; Quebec Stevedores incorporation Bill, 1861; Augusta Municipalities' Fund Bill, 1862, &c.

(s) Chatham survey Bill, 1858; Peel County town Bill, 1859; Richmond Street (London) boundary line Bill, 1861; Peterboro' and Port Hope Railway amendment Bill, 1862.

(t) North Western Railway Bill, 1856; Clifton Suspension bridge Bill, 1858; Burford survey Bill, 1860; Hope survey Bill, 1860; Etchemin bridge Bill, 1862.

(u) St. Lawrence & Bay Chaleurs Land and Lumber Co. Bill, 1858.

(v) St. Clair and Rondeau Plank Road Co. amendment Bill, 1857.

(w) Metropolitan Gas and Water Co. Bill, 1857; Richelieu Company Bill, 1862.

(x) Toronto Esplanade Bill, 1854-5.

contemplated by the bill, ^(y) or the Court of Chancery (in a bill affecting the interests of minors). ^(z) In one instance, in 1857, the committee reported, with reference to the bill to incorporate the St. Lawrence and Bay Chaleurs Land and Lumber Co., that although they could not say the preamble was not proved, yet they could not recommend the passing of the bill, its promoters being foreigners, residing out of the Province.

If, upon the report of the committee concerning a certain bill, that the preamble is not proved, the House be not satisfied with the reasons assigned in the report, the committee are directed to report the reasons or evidence which guided them in their decision; and these when reported, have generally satisfied the House, so that the bill has proceeded no further. ^(a) If it should appear from the report that the objection to the bill was not so much against the principle as against certain details, the committee may be instructed to amend the bill by striking out the objectionable provisions, and to report the same as amended. ^(b) In

Committee may be required to report evidence which guided their decision.

^(y) Bill to vest in J. Carling and others, a portion of Church Street, London, 1852-3.

^(z) Watson's Ayr Mill-dam Bill, 1856.

^(a) Cornwall By-law Bill, 1856; Metropolitan Gas and Water Co. Bill, 1857; St. Lawrence and Bay Chaleurs Land Co. Bill, 1858; Peterboro' and P. Hope Railway Bill, 1862.

^(b) Richelieu Company Bill, 1862.

one instance, however, they reported that a majority against the preamble had been obtained through one member having voted against it inadvertently; and the instruction of the House having afforded him an opportunity of correcting his vote, he had done so, and this having given a majority in favor of the preamble, the committee reported the bill. (c) In another instance, the committee having been directed to report the evidence on which their adverse decision was founded, reported the same, and it was referred to a committee of the whole, with the bill, and the bill was reported and passed. (d)

Alterations
in preamble,
ble,

It is in the power of the committee to make alterations in the preamble, (e) either by striking out or modifying such allegations as may not have been substantiated to their satisfaction, or by expunging such as the promoters may be desirous of withdrawing; (f) but no new allegations or provisions ought to be inserted, either in the preamble or the bill, excepting such as are covered by the petition and the notice, as proved before the Standing Orders Committee,—unless the parties have received permission from the House to introduce such additional provisions, in compliance

(c) Three Rivers diocese church-rate Bill, 1852-3.

(d) Clarke survey Bill, 1857.

(e) May, p. 697.

(f) Sherwood, p. 53.

with a petition for leave. ^(g) Every material alteration in the preamble must be specially reported to the House, with the reasons therefor. ^(h) Such alterations have almost invariably hitherto been of a nature to limit or reduce the powers proposed to be conferred by the bill. ⁽ⁱ⁾ An exception was made, however, in the case of a bill for the relief of the Ministers of a certain religious denomination in Montreal, in 1857, ^(j)—the preamble and provisions of which were amended so as to apply to all ministers of that denomination in Lower Canada; and it was passed in the amended form. (But see the remarks as to the limitation of the power of the committee to make amendments, on p. 66.)

It is a rule of Parliamentary practice that the “pre-
 vious question” cannot be put in committees, *i. e.*,
 that if the question were proposed that the preamble
 is proved, it is not competent for a member to propose
 the previous question “that that question be *now* put,”
 for the purpose of voting against it. The same rule

“Previous
 Question”
 cannot be
 put.

(g) May, p. 696. *Vide* also 66th Rule, L. A.

(h) 67th Rule, L. A.

(i) St. Hyacinthe incorporation Bill, 1852-3; U. Canada Mining Co. amendment Bill, 1852-3; Toronto Bank Bill, 1854-5; Frelighsburg Grammar School Bill, 1857; St. Gabriel de Valcartier division Bill, 1861.

(j) Bill for relief of Ministers of the Church of the “Countess of Huntingdon’s Connexion” at Montreal, 1857.

applies, of course, to the clauses, and to any amendments proposed. ^(k)

Preamble proved.

Proceedings on clauses.

Unusual provisions.

Evidence on bills from L. Council.

When the committee have decided that the preamble has been proved, they call in the parties, acquaint them with the decision, and then go through the bill, clause by clause, and fill up the blanks; and when petitions have been presented against a clause, or proposing amendments, or for compensation, the parties are heard in support of their objections, or amendments, or claims, as they arise. Clauses may be postponed, and considered at a later period in the proceedings, if the committee think fit. ^(l) Manuscript clauses are considered after those printed in the bill, first those proposed by the promoters, and afterwards such as may be proposed by the opponents of the bill. ^(m) If any unusual provisions are found in the bill, special mention is made of them in the report. ⁽ⁿ⁾

In the case of any bill sent down from the Legislative Council, the committee, if they have not sufficient evidence before them, can direct their chairman to move in the House that a message be sent to their Honors, requesting that the proofs and evidence on

^(k) May, pp. 350, 446; Frere, p. 49.

^(l) May, p. 695; Bristowe, p. 29.

^(m) Frere, pp. 54, 61.

⁽ⁿ⁾ Montreal Building Society Bill; Montreal Gas Co. Bill; Toronto Dry Dock Bill; various Mining Bills: all in 1847.

which the bill was founded may be communicated ; and these, when sent down, are referred to the committee.^(o)

In filling up the blanks in the bill, the committee are required to insert the maximum rates of toll, fees or other charges to be imposed under its provisions. A practice has obtained, of late years, in some instances, of requiring the rates of toll proposed to be inserted in Harbour, Bridge, or Canal Bills, to be first sanctioned in a committee of the whole, after the second reading of the bill, and afterwards referred to the committee on the bill for insertion therein. This appears to have been the usual course prior to the Union, but upon the adoption of a system of Private Bill legislation, it was discontinued. In the Session of 1852-3, this practice was resorted to in a bill to incorporate the Port Burwell Harbour Company,^(p) and it has since been observed in several instances : it is still, however, altogether the exception rather than the rule.^(q) It

(o) Counter's stove patent Bill, 1850 ; Niagara and Detroit Rivers Railroad Bill, 1859 ; Quebec Pilots' Bill, 1860.

(p) Assembly Journ., 1852-3, pp. 269, 285.

(q) The following are the only instances in which this practice of proposing the rates of toll first in committee of the whole has been observed :—Port Burwell Harbour Bill, 1852-3 ; St. Clair, Chatham and Rondeau Ship Canal Bill, 1857 ; Bayfield Harbour Bill, 1857 ; St. Lawrence Warehouse, Dock and Wharfage Co. Bill, 1857 and 1861 ; Quebec Harbour Bill, 1858 ; International Bridge (amendment) Bill, 1858 ; Rivière du Loup Bridge Bill

Rates of
toll.

may be doubted whether this exceptional practice should be continued, as it is manifest that the committee of the whole can at that early stage of the bill have no sufficient evidence to guide them in establishing the rates of toll; while on the other hand, the committee on the bill have it in their power to procure all necessary information; when they report the amended bill, it is referred to a committee of the whole, and an opportunity afforded to the House of exercising its judgment in the matter. Moreover tolls of this kind are imposed only upon such persons as may voluntarily use the works to be constructed under the authority of the bill, as a fair equivalent for a service rendered, and are thus altogether different in their character from a compulsory rate, duty, or charge upon the people, which should undoubtedly originate in a committee

1859; Clifton Suspension Bridge Bill, 1859 and 1861; St. Anne de la Péraide Bridge Bill, 1861; Simcoe and P. Ryerse tramway and Harbour Bill, 1862.

While in the following cases they have been left to originate with the committee on the Bill:—Quebec Bridge Bill, 1852-3; Yamaska Bridge Bill, 1852-3; Cap Rouge Pier and Wharf Bill, 1852-3; Pickering Harbour and Road Bill, 1852-3; Otter Creek Navigation Bill, 1854-5; Fort Erie Ship Canal Bill, 1854-5, and 1857; Georgian Bay Canal Bill, 1856; Saugeen Harbour Bill, 1856; St. Monique Bridge Bill, 1856; International Bridge Bill, 1857; Toronto Island Bridge Bill, 1857; Clifton Suspension Bridge Bill, 1858; St. Clair and Two Creeks Canal Bill, 1858; Nicolet Bridge Bill, 1860; Drummondville Bridge Bill, 1860; U. & L. Canada Bridge Bill, 1860; Etchemin Bridge Bill, 1862.

of the whole. ^(r) Furthermore, while the rule, as regards rates, duties, etc., inserted in public bills, is strictly observed in the House of Commons, all private bills are exempt from its operation, including even those under which a local rate is proposed to be levied for a local work. ^(s) In 1862, the Committee on Private Bills presented a Report, recommending that the exceptional practice referred to be discontinued. ^(t)

The amendments made by the committee are written upon a printed copy of the bill, which is signed by the chairman, who also signs, with his initials, each amendment made, and clause added, ^(u) and another copy of the bill as amended is filed in the Private Bill Office.

Amend-
ments re-
ported to
the House.

^(r) Three Rivers Diocese Church Rate Bill, 1852-3.

^(s) In 1833, a committee of the House of Commons appointed to examine into precedents in connection with this subject, reported "that the general spirit of the Standing Orders and Resolutions of the House, requires that every proposition to impose a burthen or charge on any class or portion of the people, should receive its first discussion in a committee of the whole House. The only exception from this rule is with regard to *tolls, rates, or duties* proposed to be levied on the subject in *particular places* for any *local work*; and in such cases it is directed that no bill be ordered to be brought in till the petition for it has been referred to a committee, and they have examined the matter thereof, and reported the same to the House." May (edition of 1844), p. 275.

^(t) 18th Rep. of Com. on Private Bills, L. A., 1862.

^(u) 69th Rule, L. A.

Amend-
ments of an
unusual
character to
be specially
referred to.

As the committee are required, in reporting the bill, to call the attention of the House to any provision that does not appear to have been contemplated in the notice,^(v) so if they have amended the bill in such a manner as to confine its provisions within the terms of the notice,^(w) or otherwise to restrict the same,^(x) it is usually mentioned in the report. It is customary also to make special mention of any amendment of a peculiar or unusual character, as changing the name of a proposed corporation,^(y) extending the limits of a township proposed to be erected,^(z) or materially altering certain arrangements provided for by the bill.^(a) In 1858, the committee reported a bill to detach certain lots in the township of Barton from the city of Hamilton, which they had so amended as to provide for continuing the lots in question within the limits of the city at a limited rate of taxation; they also reported a bill to provide for a separation of the Counties of Durham and Northumberland, amended in such a manner as to

(v) 66th Rule, L. A.

(w) Middlesex debt Bill, 1854-5.

(x) Toronto and Goderich Railway Bill, 1851; London debt Bill, 1856; Martin's Saltfleet road allowance Bill, 1856.

(y) Canadian Life and Fire Insurance Co. Bill, 1856; Colonial Bank Bill, 1856.

(z) Franklin Township Bill, 1857.

(a) London town lot (Agricultural Societies) Bill, 1856; Crowland Survey Bill, 1862.

leave the question of separation, &c., to the decision of the reeves and deputy reeves of the County of Durham.

The power of the committee to make amendments is, however, limited; care must be taken, in preparing them, that they involve no infraction of the Standing Orders, and are not excessive. ^(b) No new provisions may be introduced by which the interest of parties who are not suitors to the bill, or petitioners before the committee, can be affected, without due notice having been given to such parties ^(c) If the committee consider a material alteration desirable in a particular bill (of such a nature as appears to exceed their powers) they report the bill, and suggest such alterations as may meet the supposed necessity. ^(d) In 1852-3, a bill to incorporate the Mutual Insurance Association for the Fabriques of the Diocese of Quebec, was re-

Limitation
of power
to make
amend-
ments.

Material al-
terations.

(b) May, p. 665. Questions have frequently arisen (in the House of Commons) as to the right of a committee on a Railway Bill to alter the plan, which under the Standing Orders is required to be deposited in the Private Bill Office. The rules and practice of Parliament recognise this power, but the committee, before adopting any deviation from the line delineated on the plan, require proof of the consent of the owners or occupiers through whose property the proposed deviation will pass. Sherwood, p. 57.

(c) Frere, p. 64.

(d) B. N. American Mining Co. Bill, 1847; Bill to remove the Registry Office for the County of Terrebonne, 1847. In this last mentioned case, a division of the County for registration purposes was suggested, instead of the removal.

ported, with a recommendation that the principle should be extended to each Diocese in Lower Canada; and the bill was amended accordingly, and passed. In 1860, in reporting on a bill to incorporate the Annuity and Guarantee Funds Society of the Bank of Montreal, the committee expressed their opinion that it was advisable to make it a general measure, applicable to any other Bank and its employés. The suggestion was not however, adopted by the House, and the bill was proceeded with and passed, as a private bill. In some cases, where the committee have considered an amendment of the general law preferable to the passage of private acts, they have made a special report to that effect, and postponed the consideration of the bills to which it had reference, to afford an opportunity for the action of the House in the matter. ^(f) The committee have nothing to do with title of the bill, which is only agreed to by the House after the third reading. ^(g)

Power to
divide, or to
consolidate
bills.

Power may be given to the committee by the House to divide a bill into two bills, or to consolidate two bills referred to them into one. ^(h)

^(f) Various bills for the admission of English attorneys to practise in Canada, 1854-5; Various Bills for incorporating Mining Companies, 1854-5. No action was taken on the report, and the consideration of the bills being subsequently resumed, they were reported and passed.

^(g) Frere, p. 66.

^(h) Frere, p. 65.

Every bill referred to the committee must be reported. ⁽ⁱ⁾ If the promoters of any bill inform the committee that they do not desire to proceed further with it, the fact is reported to the House, ^(k) and the bill will be ordered to be withdrawn; ^(l) or, if any other parties before the committee, either as petitioners or opponents of the bill, desire to proceed with it, the committee may permit them to do so. ^(m)

Abandonment of a bill by its promoters.

A bill, after it has been reported, may be referred back to the committee, but this is very rarely done. ⁽ⁿ⁾

Bill may be referred back.

The evidence taken by the committee is not reported to the House, except in those cases where a special order to that effect may be made: ^(o) it is entered in a book, with the minutes of the proceedings of the committee, and kept in the Private Bill Office.

Evidence not reported, without an order.

If the amendments made by the committee are so numerous and extensive as to render it necessary that

Bill may be re-printed.

(i) 67th Rule, L. A.

(k) St. Lawrence Mining Bill, 1852-3.

(l) May, p. 700.

(m) The Manchester and Salford improvement Bill, in 1828, was abandoned in committee by its original promoters; when its opponents, having succeeded in introducing certain amendments, undertook to solicit its further progress. May, p. 617. (Note.)

(n) Maskinongé Common Bill, 1852-3; Strathroy and Port Frank Railway Bill, 1857; Streetsville incorporation Bill, 1858; Lindsay Reserve Bill, 1859.

(o) Great Southern Railway Bill, 1857; *vide also supra*, p. 59.

it should be re-printed before its consideration by the House, this is done at the expense of the promoters. (p)

Time for
reports
limited.

The 51st Rule, while it limits the time for receiving petitions and private bills, respectively, also provides that no report of any standing or select committee upon a private bill be received after the first six weeks, but this period is invariably extended until nearly the close of the Session.

(p) This is required in all cases, in the House of Commons, when the bill is amended. May, p. 702.

11.—PROCEEDINGS IN THE HOUSE AFTER REPORT.

By a Standing Order, all bills reported from a standing or select committee, are placed on the Orders of the Day following ^(a) the reception of the Report (though not usually taken up, except on “Private Bill” days,—*Vide* remarks on p. 34, under “Second reading of Bill”), for reference to a committee of the whole House, in their proper order, next after bills reported from committees of the whole House; ^(b) the only exception being in the case of bills on which the committee have reported the preamble not proved, which are not placed on the Orders of the Day at all, unless by special order of the

Consideration in committee of whole.

(a) In 1861, the committee in reporting certain bills, at a late period of the Session, recommended that they be placed on “the Orders of this day,” which was done accordingly. *Assembly Journ.*, 1861, p. 293.

(b) 22nd Rule, I. A.

House. ^(c) Several bills may be referred together to a committee of the whole. ^(d)

Counsel
once heard
at this stage.

The usual time for counsel to be heard at the Bar of the House upon a bill is at the second reading: ^(e) Upon one occasion however the House resolved (upon petition from the parties) to hear counsel for and against the bill ^(f) at this stage. The bill having been reported by the committee with amendments, they were directed to report the evidence, and the same was printed, with the bill in its amended shape. The Order of the Day for the House in committee on the bill, being read, counsel were called in and heard: it was then moved "that this House will resolve itself into the said committee on this day three months:" the consideration of this motion was postponed, and the bill was subsequently abandoned. It may be here observed, that a motion to postpone the consideration of a bill for three or six months, offered at any stage, is, if agreed to, equivalent to a rejection of the bill for that Session.

Amend-
ments of
select com-
mittees gen-

It may be well to remark here, that while it is, of course, competent to the House to amend or reject any bill after it has been reported by a select com-

(c) 68th Rule, L. A.

(d) May, p. 441; Also, Assembly Journ., 1860, p. 445; 1861, p. 319.

(e) University of Toronto Bill, 1843, 1844-5, and 1846; Montreal Consumers' Gas Co. Bill, 1846.

(f) Great Southern Railway Bill, 1857.

mittee, and to amend or reject any of the amendments agreed to by the committee, practically this right is but rarely exercised. The inability of the House to discuss a private bill upon its merits in the absence of such information as evidence alone can supply, renders its reference to a select committee indispensable; and the House practically delegates its responsibility to that committee, and almost invariably accepts their decision. The principle thus acted upon by our Provincial Legislature, has been established in the Imperial Parliament as the result of a very long experience in private bill legislation. The Right Hon. John E. Denison, Speaker of the House of Commons, a very high authority in all matters connected with either public or private Parliamentary Business, in his evidence before a committee of that House upon the Business of the House, in 1861, says, in reference to this question,—“If you look at the precedent of private legislation, you will see that some few years ago it was held that it would be quite impossible to concede such enormous interests as railway interests to a committee of five men; but these enormous interests, such as the consolidation of all the railways in the centre of Scotland, which was discussed before the House of Commons the other day, and the great question of the docks at Liverpool and the Mersey, now go to five men appointed by the Committee of

erally accepted by the House.

Evidence of Speaker of H. of C. on this subject.

“ Selection, and practically there is no appeal from their decision, because the House has been obliged almost to adopt as a rule that it will not interfere with the decision of committees.”^(g) In a subsequent part of his evidence, after re-iterating this statement, he adds, that the House is the more disposed to support the decision of the committee, because the smallness of the number of the members increases the responsibility of the committee.^(h)

Amendments of committees in committee of the whole.

In pursuance of this principle, the practice has prevailed of late years, in the Legislative Assembly, in the consideration of private bills in committee of the whole, of not treating the amendments made by the select committee as amendments, but considering the bill, as amended, as a whole; thus in reporting the bill to the House the chairman refers only to the amendments made in committee of the whole. Bills from the Legislative Council form a necessary exception to this practice, as every amendment made to the bill as sent down from that House must be communicated for its concurrence.

Instructions to committee of whole.

Before the House resolves itself into committee on a bill, an Instruction may be given to the committee, empowering them to make provision for any matters

(g) Report from the Select Committee of the House of Commons, on the business of the House, 1861. (Ans. to Ques. 155.)

(h) Same Report. (Ans. to Ques. 183 to 186, 192.)

not relevant to the subject matter of the bill. An instruction is not ordinarily *compulsory*, but is rather *permissive*; a mandatory or compulsory instruction may, however, be given, and instances are to be found in which committees on bills have been instructed "that they do make provision," &c., or "do make two bills into one."⁽ⁱ⁾ An instruction should always be made a distinct question, after the order of the day has been read, and not as an amendment to the question for the Speaker leaving the chair, unless its object be to prevent the sitting of the committee; as the amendment, if agreed to, supersedes the question for the Speaker leaving the Chair.^(k) No amendment which is irrelevant to the bill (as extending its operations beyond the limits expressed in the preamble and title, &c.) can be made without an instruction.^(l) If any amendment be made that is not within the title of the bill, the committee amend the title accordingly, and report the same specially to the House.^(m)

Power to amend in committee limited.

In the Session of 1852-3, the committee of the whole on the bill to empower the Municipal Council of the County of Two Mountains to subscribe for stock in any railway passing through that county, was

Special instruction.

(i) May, p. 439.

(k) May, p. 348.

(l) May, p. 446.

(m) Standing Order, H. of Com., 19 July, 1854. Bristowe, p. 133.

instructed to inquire into the expediency of extending its provisions to the County of Terrebonne. The bill was amended accordingly and passed, and was subsequently amended by the Legislative Council so as to extend its operation also to the counties of Rouville and Missisquoi.

Notice to be given of amendments.

When it is intended to propose any important amendment in committee of the whole, or at the third reading, one day's notice thereof must be given in the Votes. ⁽ⁿ⁾

Course of proceeding in committee of the whole.

In the committee of the whole, the same course is adopted as in the select committee,—the question being proposed on the preamble first. ^(o) The chairman then reads the number of each clause in succession, with the marginal note which explains its objects. If no amendment be offered to a clause, he at once puts the question, "That this clause stand part of the bill," and proceeds to the next. When an amendment is proposed, he states the line in which the alteration is to be made, and puts the question in the ordinary form. No amendment can be made to a clause after the committee has passed on to

Amendments.

(n) 70th Rule, L. A. In the Commons, every such amendment is also, in all cases involving a necessity therefor, referred to the Committee on Standing Orders for their report. May, p. 703.

(o) In this respect differing from the course pursued upon public bills, the preamble of which is postponed until the clauses have been settled.

another clause ; nor can any amendment be offered to any clause which is irrelevant to the subject matter of such clause, but the same should be submitted, as a separate clause, at the end of the bill. ^(p) Clauses Clauses postponed. may be postponed, unless they have been amended, when it is not regular to postpone them. Postponed clauses are considered after the other clauses are disposed of, and before any new clauses are brought up. If the committee cannot go through the whole bill at Report. one sitting, they direct the chairman to report progress, and ask leave to sit again. When the bill has been fully considered, the chairman puts a question " That I do report this bill without amendment," or " with the amendments, to the House ; " which being agreed to, the sitting of the committee is concluded, and Mr. Speaker resumes the chair : upon which the chairman approaches the steps of the Speaker's chair, and reports from the committee that " they had gone through the bill and had made amendments thereto," or that " they had gone through the bill and directed him to report the same without amendment." ^(q) Sometimes, however, the proceedings of a committee are brought to a close, by an order " That the chairman do now leave the chair ; " in which case the chairman, being without instructions, makes no report to the House, and the

(p) May, p. 442.

(q) May, p. 44.

bill disappears from the Order Book, and is generally regarded as defunct ; but it is nevertheless competent for the House to appoint another day for the committee, and to proceed with the bill. ^(r)

Proceed-
ings after
report.

When the chairman has reported the bill to the House, the entire bill is open to consideration, and amendments may be made, and new clauses added (of which due notice has been given, as above mentioned) or the bill may be re-committed for further amendment. ^(s) If amendments have been made in committee, the question is at once put upon each amendment, in the order in which it stands in the bill ; or the consideration of the bill, as reported, may be postponed to a future day.

Third read-
ing order-
ed.

When the bill has been reported, and the amendments made in committee (if any) have been disposed of by the House, it is ordered for a third reading on the following day. The practice of engrossing on parchment, all bills ordered for a third reading, was discontinued in 1851, when both Houses agreed to substitute bills printed by the Queen's Printer, for the engrossed copies : a further change was made in 1862, when the printing of these bills was transferred to the Parliamentary contractor.

(r) May, p. 449. (s) May, p. 450.

12.—THIRD READING OF BILL.

Private bills on the Orders of the Day for a third reading, take precedence, on Private Bill days (*vide* Time for third reading. remarks under “Second reading of Bill” *supra*, p. 34) of all other Orders. ^(a) At this stage, it is not customary to make any amendments but such as are merely verbal; no important amendment may be proposed without one day’s notice thereof: ^(b) if it be considered necessary, the order for the third reading may be discharged, and the bill re-committed.

This is usually the stage at which the Queen’s consent is signified to any bill affecting the property Rights of the Crown. or interests of the Crown. ^(c)

The Order for the third reading, being read, the member in charge of the bill moves 1st, “That the bill be now read a third time;” 2nd, “That the bill do now pass, and that the title be,” &c. Passage of bill. The Clerk is then ordered to carry the bill to the Legislative Council, and desire their concurrence.

(a) 20th Rule, L. A.

(b) 70th Rule, L. A.

(c) May, p. 705.

No Standing Order suspended without notice.

Every stage of a private bill, in its passage through the Legislative Assembly, has now been described. It may be here mentioned, that, in accordance with the practice on public bills, a bill may upon urgent and extraordinary occasions be advanced two or more stages in one day, ^(d) but except in cases of urgent and pressing necessity, no motion may be made to dispense with any Standing Order relative to private bills, without due notice, ^(e) printed in the Votes.

Bills amended by L. Council.

If a bill be subsequently returned from the Legislative Council with amendments, the member in charge (or any other member acting for him) moves "That the amendments made by the Legislative Council to the Bill (*title*) be now taken into consideration." They are then read by the Clerk, a first time, and if merely verbal or unimportant, they are read a second time, and may be at once agreed to; the Clerk is then ordered to carry the bill to the Legislative Council. If any of the amendments be important, they are referred to the Standing Committee to which the bill was originally referred, ^(f) and all further proceedings on the matter are suspended until their report is received.

Amendments referred, in certain cases.

The practice in the Legislative Council with refer-

(d) 43rd Rule, L. A.

(e) 72nd Rule, L. A.

(f) 71st Rule, L. A.

ence to any of their bills which may have been returned from the Assembly with amendments, differs somewhat from that of the Assembly in this respect,—leaving it optional to refer the amendments to the select committee, or to a committee of the whole. (g)

Bills amended by L. Assembly.

If the House disagree to one or more of the amendments, a committee is appointed to draw up the reasons for so disagreeing, and they are communicated to the Legislative Council at a conference, and an opportunity is thus afforded to the Council of not insisting upon the amendments objected to. (h) In the event of both Houses refusing to yield the point in discussion, the bill is withdrawn or abandoned. (i)

Amendments disagreed to.

In case a bill should not be proceeded with in the Legislative Council in consequence of amendments having been made which infringe the privileges of the Lower House, the same proceedings are adopted as in the case of a public bill. A committee is appointed to search the journals of the Council, and on their report, another bill may be ordered, including the amendments made by the Council. (j)

Bills not proceeded with in L. Council.

Committee to search Journals.

(g) 71st Rule, L. C.

(h) Levis incorporation Bill, 1861.

(i) Sherwood, p. 74.

(j) May, p. 707.

13.—PROCEEDINGS ON PRIVATE BILLS IN THE LEGISLATIVE COUNCIL.

Proceed-
ings the
same as in
Assembly.

The proceedings in the Legislative Council on bills received from the Assembly, are now (in conformity to a Resolution adopted by their Honors in 1861, and hereinbefore referred to) precisely similar to those which have been described in their progress through the Lower House. ^(a) When any such bill has been referred to a select or standing committee, the same

(a) The House of Lords have certain Standing Orders which are not common to both Houses. By one called the "Wharnccliffe Order," it is provided that no bill empowering an existing company to execute or contribute to works, other than those for which it was originally constituted, or for the amalgamation, dissolution, or abandonment of the company, will be allowed to proceed without proof that a meeting of the proprietors was held, at which the bill was approved. There are also (under other of their Standing Orders) special matters required to be proved, or to be done, in certain classes of bills; and it is especially provided that no bill for the regulation of any trade, or the extension of the term of a patent, is to be read a second time, until a select committee has reported upon the expediency of taking it into further consideration. May, pp. 712 to 715.

course is taken for obtaining evidence upon the preamble ; or the committee can, if they desire it, instruct their chairman to move that a message be sent to the Assembly, requesting that the proofs and evidence on which the bill is founded may be communicated, ^{Evidence.} ^(b) and these, when received, are referred to the committee.

By far the greater number of private bills are introduced first in the Assembly, but no arrangement has yet been effected between the two Houses, similar to that in operation in the Imperial Parliament, for regulating the class of bills which should originate in each House. A reference to the remarks on this subject in the Preliminary Chapter, and the corresponding Note, will explain the nature of this arrangement. (*supra*, p. 5.) The course taken upon bills which originate in the Legislative Council, corresponds exactly with the proceedings in the Lower House, except in the case of Divorce Bills: the course of proceedings upon these bills will now be explained. ^{DIVORCE BILLS:}

Divorce Bills are introduced first in the Legislative Council, and there are certain Standing Orders concerning them which are peculiar to that House. On ^{Fee.} the presentation of the petition, a sum of \$80 is depos-

(b) Pickering Harbour and Road Bill, 1852-3; Bill to remedy defects in title to Lot 4, Broken concession, A and B, township of Hamilton, 1854-5.

ited in the hands of the Clerk, ^(c) in place of the fee and charges levied upon other private bills after the second reading. Notice of the application must be published during six months before the presentation, instead of two months, ^(d) and various matters must be proved on the reading of the petition, which are specified in detail in the Chapter headed "Proof of Notices," &c. (*supra*, p. 20.) The bill, when presented, cannot be read a second time until 14 days shall have elapsed from the first reading: a notice of the day appointed therefor, with a copy of the bill, are served on the party from whom the divorce is sought; and proof, on oath, of such service (where the same is possible) is adduced at the Bar before the second reading. ^(e) The petitioner attends below the Bar, at the second reading, to be examined generally, or as to any collusion between the parties to obtain a separation, unless such attendance is dispensed with. ^(f) After the second reading, witnesses are examined at the Bar, on oath; in support of the bill, the preliminary evidence being that (by certificate or otherwise) of the due celebration of the marriage of the parties. ^(g)

Notice.

First and second reading of bill.

Attendance of petitioner.

Examination of witnesses.

(c) 86th Rule, L. Council.

(d) 75th Rule, L. C.

(e) 79th Rule, L. C.

(f) 80th Rule, L. C.

(g) 81st Rule, L. C.

The counsel for each party may be heard at the Bar, Counsel.
 either on the evidence, or on the provision for the
 future support of the wife. ^(b) Witnesses are notified Summons
 by a summons under the hand and seal of the Speaker, for witness-
 served at the expense of the party applying therefor, ses.
 by whom also their expenses are defrayed. ⁽ⁱ⁾ Any
 witness refusing to attend is taken into the custody of
 the Sergeant-at-Arms, and is liable for all expenses
 attending such default. ^(k) After the second reading, Bill re-
 the bill is referred, not to a select or standing commit- ferred to
 tee, but to a committee of the whole House. ^(l) No committee
 bill to dissolve a marriage on the ground of adultery is of whole.
 received, without a clause prohibiting the offending Prohibitory
 parties from marrying; but this clause is struck out clause.
 in committee, or on the report, except in very peculiar
 cases. ^(m) In all subsequent proceedings, divorce bills
 are dealt with in the same manner as other private bills.
 If any matter not provided for by the Rules should Unprovi-
 arise, reference is had to the Rules and practice of the ded cases.
 House of Lords. ⁽ⁿ⁾ When the bill is reported, and
 any amendments that may have been made are agreed

(b) 82nd Rule, L. C.

(i) 83rd Rule, L. C.

(k) 84th Rule, L. C.

(l) May, p. 729.

(m) May (Edit: of 1855), p. 611.

(n) 87th Rule, L. C.

to by the House, it is ordered to be read a third time on a future day, when it is read a third time, passed, and sent to the Legislative Assembly in the usual form.

Reversal of
attainders,
& c.

Bills for the reversal of attainders, or for the restoration of honors and lands, are first signed by the Governor General, and are presented in the Legislative Council (without a previous petition) by command of His Excellency; ^(o) after which they pass through the ordinary stages, and are sent to the Assembly. Here the Queen's consent is signified before the first reading; and if this form be overlooked, the proceedings will be null and void. After the second reading, ^(p) they may be ordered to be read a third time on a subsequent day, without reference to a committee. Such bills receive the Royal Assent in the usual form, as public bills. ^(q)

The bills sent down to the Legislative Assembly pass through the same stages, and are subject to the same rules, as other private bills, except that divorce bills are referred to a selected instead of a standing com-

(o) Matthews' attainer reversal Bill; Council Journ., 1846, p. 147.

(p) In the Commons, such bills, after the second reading, are committed to several members specially nominated, "and all the members of this House who are of Her Majesty's most honorable Privy Council, and all the gentlemen of the long robe." May, p. 723.

(q) May, p. 723.

mittee. When any private bill (not being a name or divorce bill) ^(r) is so received, that is not based on a petition which has been already reported on by the Committee on Standing Orders, it is taken into consideration and reported on by the said committee, after the first reading, ^(s) with reference to the notices required by the Rules.

Proceedings in Assembly on bills from L. Council.

(r) May, p. 729.

(s) 56th Rule, L. A.

14.—ROYAL ASSENT.

“Public
Act”
clause.

Private bills receive the Royal assent in the same manner and form, and at the same time, as public bills. Every private Act, almost without exception, contains a clause declaring that it “shall be deemed a public Act.” The effect of this clause (as provided by Cap. 5, Consol. Stat. of Canada, commonly called the “Interpretation Act”) is that it shall be construed as an enactment that such act shall be judicially noticed by all Judges, Justices of the Peace and others, without being specially pleaded; whereas private Acts which do not contain such a clause can be judicially noticed only when specially pleaded. Copies thereof printed by the Queen’s Printer are held to be evidence of such Acts and their contents. ^(a)

(a) Cap. 5, Consol. Stat. of Canada, sec. 6, sub-sec. 27.

Until the year 1849, private Acts were printed with the public statutes, and bound together in the same volume. In that year, an Act was passed ^(b) which provided that local Acts should be printed (at the expense of the Province) in such number only as should suffice for distribution to the Judges, Public Departments, and certain local functionaries; and that of private or personal Acts 150 copies only should be printed, at the expense of the parties obtaining the same. Under this arrangement no private Acts of any class were printed for general distribution with the Statutes; and the inconvenience attending it was so strongly felt, that in 1851 an Act was passed ^(c) providing for the printing and distribution of all local, private, and personal Acts, in the same manner, and to the same extent as the public Acts,—reviving, in fact, the former practice, of binding up all the Acts of a Session, public and private, in the same volume. It may be worthy of consideration whether the public convenience would not be equally consulted by printing a limited number (say 500 copies) of the local and private Acts, and binding them in a supplementary volume, and distributing them with the public Acts only where they

Printing of
private acts
with the
Statutes.

(b) 12 Vic., cap. 16.

(c) 14 and 15 Vic., cap. 81.

are really required. (d) This would cause a large saving in the cost of printing, and would disencumber the Statute Book of a mass of enactments which have no bearing on the statute law of the land.

(d) All such private Acts of the Imperial Parliament as contain the "public" clause are printed in a separate collection, and are known as local and personal Acts. Another class consisting chiefly of inclosure, drainage, and estate Acts, are printed by the Queen's Printers, and contain a clause declaring that a copy so printed "shall be admitted as evidence thereof by all judges, justices, and others," and a further enactment that the "Act shall not be deemed a public Act." A third class, consisting of name, naturalization, divorce, and other strictly personal Acts, are not printed; but a list of them is inserted by the Queen's Printers after the titles of the other private Acts. May, pp. 731, 732.

APPENDIX I.

RULES COMMON TO BOTH HOUSES

IN RELATION TO PRIVATE BILLS.

51.—No petition for any private bill, is received by the House after the first three weeks of each Session; nor may any private bill be presented to the House after the first four weeks of each Session; nor may any report of any Standing or Select Committee upon a private bill be received after the first six weeks of each Session.

Private
Bills, &c.,
time for
receiving.

52.—The Clerk of the House shall, during each recess of Parliament, [from and after the first day of November in each year]^(a) publish weekly in the Official Gazette, the following Rules, respecting notices of intended applications for private bills, and in other newspapers (English and French) the substance thereof; [and shall also, immediately after the issue of the

Clerk to
publish
Rules res-
pecting pri-
vate bills.

(a) These words occur in the Legislative Council Rule only.

Proclamation convening Parliament for the dispatch of business, publish, in the Official Gazette, and in other provincial newspapers, as aforesaid, until the opening of Parliament, the day on which the time limited for receiving petitions for private bills will expire, pursuant to the foregoing Rule ;] ^(b) and the Clerk shall also announce, by notice affixed in the committee rooms and lobbies of this House, by the first day of every Session, the times limited for receiving Petitions for Private Bills, and Private Bills, and Reports thereon.

Notices
for private
bills.

53.—All applications for private bills, whether for the erection of a Bridge, the making of a Railroad, Turnpike Road or Telegraph line ; the construction or improvement of a Harbour, Canal, Lock, Dam or Slide or other like work ; the granting of a right of Ferry ; the construction of works for supplying Gas or Water ; the incorporation of any particular Profession or Trade, or of any Banking or other joint stock Company ; the incorporation of a City, Town, Village or other Municipality ; the levying of any local assessment ; the division of any County, for purposes other than that of representation in Parliament, or of any Township ; the removal of the site of a County Town, or of any local offices ; the regulation of any Common ; the re-survey

(b) The words in brackets do not occur in the Legislative Council Rule.

of any Township, Line, or Concession ; or otherwise for granting to any individual or individuals any exclusive or peculiar rights or privileges whatever, or for doing any matter or thing which in its operation would affect the rights or property of other parties, or relate to any particular class of the community ; or for making any amendment of a like nature to any former Act,— shall require a notice, clearly and distinctly specifying the nature and object of the application, to be published as follows, viz :

In *Upper Canada*—A notice inserted in the Official Gazette, and in one newspaper published in the County, or union of Counties, affected, or if there be no paper published therein, then in a newspaper in the next nearest County in which a newspaper is published.

In *Lower Canada*—A notice inserted in the Official Gazette, in the English and French languages, and in one newspaper in the English, and one newspaper in the French language, in the District affected, or in both languages, if there be but one paper ; or if there be no paper published therein, then (in both languages) in the Official Gazette, and in a paper published in an adjoining District.

Such notices shall be continued in each case for a period of at least two months, during the interval of time between the close of the next preceding Session and the consideration of the petition.

Toll Bridge
Bills.

54.—Before any petition praying for leave to bring in a private bill for the erection of a Toll Bridge, is presented to the House, the person or persons intending to petition for such bill, shall, upon giving the notice prescribed by the preceding Rule, also, at the same time, and in the same manner, give notice of the rates which they intend to ask, the extent of the privilege, the height of the arches, the interval between the abutments or piers for the passage of rafts and vessels, and mentioning also whether they intend to erect a drawbridge or not, and the dimensions of the same.

Petitions
reported on
by Com-
mittee on
Standing
Orders.

55.—Petitions for private bills, when received by the House, are to be taken into consideration (without special reference) by the Committee on Standing Orders, which is to report in each case, whether the Rules with regard to Notice have been complied with: and in every case where the notice shall prove to have been insufficient, either as regards the petition as a whole, or any matter therein which ought to have been specially referred to in the notice, the committee is to recommend to the House the course to be taken in consequence of such insufficiency of notice.

Private
bills from
Legislative
Council
(Assembly).

56.—All private bills from the Legislative Council (Assembly), (not being based on a petition which has already been so reported on by the committee) shall be first taken into consideration and

reported on by the said committee in like manner, after the first reading of such bills.

57.—No motion for the suspension of the Rules upon any petition for a private bill is entertained, unless the same has been reported upon by the Committee on Standing Orders. Suspension of Rules.

58.—All private bills are introduced on petition, and presented to the House [upon a motion for leave], (c) after such petition has been favorably reported on by the Committee on Standing Orders. Introduction of private bills.

59.—When any bill for confirming Letters Patent is presented to the House, a true copy of such Letters Patent must be attached to it. Letters Patent.

60.—The expenses and costs attending on private bills, giving any exclusive privilege, or for any object of profit, or private, corporate, or individual advantage; or for amending, extending, or enlarging any former Acts in such manner as to confer additional powers, ought not to fall on the public; accordingly the parties seeking to obtain any such bill shall be required to pay into the Private Bill Office, the sum of sixty dollars, immediately after the second reading thereof; and all such bills shall be prepared in the English and French languages, by the parties applying for the same, and printed by the Contractor for Fees, and cost of preparing and printing private bills.

(c) The words in brackets do not occur in the Legislative Council Rule. *Vide supra*, p. 31. (Note.)

printing the Bills of the House, and 350 copies thereof in English shall be deposited in the Private Bill Office, with 200 copies in French also of such bills as relate to Lower Canada, before the second reading ; and no such bill shall be read a third time until a certificate from the Queen's Printer shall have been filed with the Clerk, that the cost of printing 500 copies of the Act in English and 250 in French, for the Government, has been paid to him.

Fee, and
cost of
printing,
where paid.

The Fee payable on the second reading of any private bill, is paid only in the House in which such bill originates, but the cost of printing the same is paid in each House.

Bills and
petitions
referred.

61.—Every private bill, when read a second time, is referred to the Committee on Private Bills, if any such shall have been appointed, or to some other Standing Committee of the same character ; and all petitions before the House for or against the bill are considered as referred to such committee.

Notice of
sitting of
committee.

62.—No committee on any private bill originating in this House, of which notice is required to be given, is to consider the same until after a week's notice of the sitting of such committee has been first affixed in the Lobby, nor in the case of any such bill originating in the Legislative Assembly (Council) until after twenty-four hours' like notice.

63.—A copy of the bill containing the amendments proposed to be submitted to the Standing Committee, shall be deposited in the Private Bill Office, one clear day before the meeting of the committee thereupon.

Deposit of filled-up bill in Private Bill Office.

64.—All persons whose interest or property may be affected by any private bill, shall, when required so to do, appear before the Standing Committee touching their consent, or may send such consent in writing, proof of which may be demanded by such committee. And in every case the committee upon any bill for incorporating a company may^(d) require proof that the persons whose names appear in the bill as composing the company, are of full age, and in a position to effect the objects contemplated, and have consented to become incorporated.

Consent of parties interested.

65.—All questions before committees on private bills are decided by a majority of voices, including the voice of the chairman; and whenever the voices are equal, the chairman has a second or casting vote.

Voting in committees.

66.—It is the duty of the select committee to which any private bill may be referred by the House, to call the attention of the House specially to any provision inserted in such bill, that does not appear to have been contemplated in the Notice for the same, as reported upon by the Committee on Standing Orders.

Extraordinary provisions in bills.

(d) In the Legislative Council Rule, the word "shall" is inserted here, in place of "may."

Report of committee. 67.—The committee to which a private bill may have been referred, shall report the same to the House, in every case ; and when any material alteration has been made in the preamble of the bill, such alteration, together with the reasons for the same, are to be stated in the report.

Preamble not proved. 68.—When the committee on any private bill report to the House that the preamble of such bill has not been proved to their satisfaction, they must also state the grounds upon which they have arrived at such a decision ; and no bill so reported on shall be placed upon the Orders of the Day, unless by special order of the House.

Chairman to sign bills and amendments. 69.—The chairman of the committee shall sign, with his name at length, a printed copy of the bill, on which the amendments are fairly written, and shall also sign with the initials of his name, the several amendments made and clauses added in committee ; and another copy of the bill, with the amendments written thereon, shall be prepared by the clerk of the committee, and fyled in the Private Bill Office, or attached to the Report.

Amendments in committee or at third reading. 70.—No important amendment may be proposed to any private bill in a committee of the whole House, or at the third reading of the bill, unless one day's notice of the same shall have been given.

71.—When any private bill is returned from the Legislative Council (Assembly) with amendments, the same not being merely verbal or unimportant, such amendments are, previous to the second reading, referred to [a committee of the whole House, or to] ^(e) the Standing Committee to which such bill was originally referred.

Bill amended by L. Council (Assembly.)

72.—Except in cases of urgent and pressing necessity, no motion may be made to dispense with any Standing Order relative to private bills, without due notice thereof.

Dispensing with Standing Orders.

73.—A book to be called the “Private Bill Register,” shall be kept in a room to be called the “Private Bill Office,” in which book shall be entered, by the clerk appointed for the business of that office, the name, description and place of residence, of the parties applying for the bill, or of their agent, and all the proceedings thereon from the petition to the passing of the bill; such entry to specify briefly each proceeding in the House, or in any committee to which the bill or petition may be referred, and the day on which the committee is appointed to sit. Such book to be open to public inspection daily, during office hours.

Private Bill Register.

74.—The Clerk of the Private Bill Office shall prepare, daily, lists of all private bills, and petitions

Private bill committees.

(e) These words occur in the Legislative Council Rule only.

for such bills, upon which any committee is appointed to sit, specifying the time of meeting, and the room where the committee shall sit; and the same shall be hung up in the lobby.

(The following Rules may also be given, as bearing on the practice in Parliament in relation to Private as well as Public Bills.)

(Legislative Council.)

Unprovided cases, L. C. 116.—In all unprovided cases, the rules, usages, and forms of the House of Lords are to be followed.

(Legislative Assembly.)

Parliamentary Agents. 49.—Every Parliamentary Agent conducting proceedings before the Legislative Council (Assembly) shall be personally responsible to the House and to the Speaker, for the observance of the rules, orders, and practice of Parliament, and rules prescribed by the Speaker, and also for the payment of all fees and charges; and he shall not act as Parliamentary Agent until he shall have received the express sanction and authority of the Speaker.

Agents violating Rules liable to suspension. 50.—Any Agent who shall wilfully act in violation of the rules and practice of Parliament, or any Rules to be prescribed by the Speaker, or who shall wilfully

misconduct himself in prosecuting any proceedings before Parliament, shall be liable to an absolute or temporary prohibition to practise as a Parliamentary Agent, at the pleasure of the Speaker; provided that upon the application of such Agent, the Speaker shall state in writing the ground for such prohibition.

116.—In all unprovided cases the rules, usages, ^{Unprovided} and forms of the House of Commons shall be followed. _{cases, L. A.}

APPENDIX II.

RULES OF THE LEGISLATIVE COUNCIL

CONCERNING

BILLS OF DIVORCE.

Divorce
notices pub-
lished.

75.—Every applicant for a Bill of Divorce is required to give notice of his intention so to do, and to specify from whom and for what cause, by advertisement during six months, in the *Official Gazette*, and in two Newspapers published in the District in Lower Canada, or County or Union of Counties in Upper Canada, where such applicant usually resided at the time of the separation, or in the adjoining District if the requisite number of papers cannot be found in the first District, or County or Union of Counties.

And served
on adverse
party.

76.—A copy of the notice, in writing, is to be served, at the instance of the applicant, upon the person from whom the divorce is sought, if the residence of such person can be ascertained; and proof on oath of such service, or of the attempts made to effect it, to the

satisfaction of the House, is to be adduced before the House on the reading of the petition.

77.—When proceedings in any Courts of Law have taken place prior to the petition, an exemplification of such proceedings to final judgment, duly certified, is to be presented to the House on the reading of the petition.

Proceedings in Courts
filed.

78.—In cases where damages have been awarded to the applicant, proof on oath must be adduced, to the satisfaction of the House, that such damages have been levied and retained, or explanation given to the House, for the neglect or inability to levy the same, under a writ of execution, as they may deem a sufficient excuse for such omission.

Damages
levied.

79.—The second reading of the bill is not to take place until fourteen days after the first reading, and notice of such second reading is to be affixed upon the doors of the House during that period, and a copy thereof and of the bill duly served upon the party from whom the divorce is sought, and proof, on oath, of such service, adduced at the Bar of the House, before proceeding to the second reading, or sufficient proof adduced of the impossibility of complying with this regulation.

Formalities
before 2nd
reading.

80.—The petitioner is to appear below the Bar of the House, at the second reading, to be examined by the House, generally, or as to any collusion or conni-

Petitioner
to appear.

vance between the parties to obtain such separation, unless the House think fit to dispense therewith.

Evidence of celebration of marriage.

81.—After the second reading, witnesses are to be heard, at the Bar of the House, on oath, the preliminary evidence being that of the due celebration of the marriage between the parties, by legitimate testimony, either by witnesses present at the time of the marriage, or by complete and satisfactory proof of the certificate of the officiating minister or authority.

Counsel heard.

82.—The counsel for the applicant, as well as the party from whom the divorce is sought, may be heard at the Bar of the House, as well on the evidence adduced, as on the provisions for the future support of the wife, if deemed necessary.

Witnesses, how summoned.

83.—The witnesses are notified to attend by a summons, to issue under the hand and seal of the Speaker, to the parties applying for the same, on application to the Clerk of the House, and served at the expense of the said parties, by the Sergeant-at-Arms, or his authorized deputy; and every witness is allowed his reasonable expenses, to be taxed by the House or any officer thereof appointed for that purpose.

When refusing to attend.

84.—Witnesses refusing to obey the summons are, by order of the House, taken into the custody of the Sergeant-at-Arms, and not liberated therefrom, except by order of the House, and after payment of the expenses incurred.

85.—Every Bill of Divorce is to be prepared by the party applying for the same, and printed by the Contractor for the Sessional Printing of the House, at the expense of the party; and 350 copies thereof in English, and 200 copies in French, must be deposited in the office of the Clerk of the House, and no such bill is to be read a third time until a certificate from the Queen's Printer shall have been filed with the Clerk, that the cost of printing 500 copies of the Act, in English, and 250 copies in French, for the Government, has been paid to him.

Bill prepared and printed by petitioner.

86.—Every applicant for a Bill of Divorce, at the time of presenting the petition, is to pay into the hands of the Clerk of the House, a sum of eighty dollars, to cover the expenses which may be incurred by the House during the progress of the bill.

Amount to be paid.

87.—In all unprovided cases, reference should be had to the rules and decisions of the House of Lords.

Unprovided cases.

APPENDIX III.

 FORM OF PETITION TO THE THREE BRANCHES OF
 THE LEGISLATURE, FOR A PRIVATE BILL.

Form of Pe-
 tition to
 His Excel-
 lency.

To His Excellency the Right Honorable CHARLES
 STANLEY, VISCOUNT MONCK, Baron Monck of
 Ballytrammon, in the County of Wexford, Gover-
 nor General of British North America, and
 Captain General and Governor in Chief in and
 over the Provinces of Canada, Nova Scotia,
 New Brunswick, and the Island of Prince Edward,
 and Vice Admiral of the same, &c., &c., &c.

The Petition of the undersigned _____ of the
 of _____

HUMBLY SHEWETH :

*That (here state the object desired
 by the petitioner in soliciting an Act).*

Wherefore your petitioner humbly prays that
Your Excellency may be pleased to sanction
the passing of an Act (*for the purposes
above mentioned*).

And as in duty bound, your petitioner will ever
pray.

(Signature) { Seal, in the case
of an existing
Corporation.

(*Date.*)

Form of Petition to L. Council, or L. Assembly.

To the Honorable the Legislative { Council }
 of Canada, in Provincial Parliament assembled :
 Assembly }

The Petition of the undersigned of the
 of

HUMBLY SHEWETH :

That (here state the object desired by the petitioner in soliciting an Act).

Wherefore your petitioner humbly prays that
 Your Honorable House may be pleased to
 pass an Act (*for the purposes above mentioned*).

And as in duty bound, your petitioner will ever
 pray.

(Signature) { Seal, as above.

(Date.)

I N D E X .

Abandonment of bill :

If a bill be abandoned by its promoters, the fact is reported, or the committee may permit other parties to proceed with it, 69.

Agents :—See Parliamentary Agents.

Amendments :

Instructions to select committee on bill, concerning amendments, 42, 68.—To committee of whole, 74.

Filled up copy of bill, containing any proposed amendments, to be deposited by promoters, before day for consideration of bill, 51, 97.

Alterations in preamble to be specially reported, 60, 98;—or material alterations in bill, 66.

No new provisions (not covered by petition and notice) can be inserted by committee without leave of the House, 60.—But an extension of the operation of a bill may be recommended to the House, 67.

No new provisions may be inserted affecting interests of parties not represented before committee, without due notice to such parties, 67.

No amendment irrelevant to the bill can be made in committee of whole without an instruction, 75.

Notice must be given of amendments proposed in committee of whole, 76, 98;—or after report of committee of whole, 78, 98;—or at third reading, 79, 98.

No amendment can be proposed to a clause, in committee of whole, after the committee has passed on to another clause, 76.

May be made by the House, after report of committee of whole, 7.

Verbal amendments only made at third reading; but bill may be re-committed, 79.

Amendments of L. Council to a bill originating in L. Assembly, are referred to the committee of the Assembly to which the bill was originally referred, 80, 99.—Practice in L. Council with regard to amendments of L. Assembly, 80, 99.

Amendments of L. Council disagreed to; conferences desired, 81.

Attainders :

Bills for reversal of attainders, 86.

Bank Bills :

Where they should originate, 5.

Blanks :

Rates, tolls, and fines are inserted in bill in *italics*, technically regarded as blanks, 32.

Committee to fill up the blanks with the maximum rates, 63.

Bridges :

Notice of applications for toll-bridge bills, to specify rates of toll, &c., 19, 92, 94.

Rates to be printed in the bill in *italics*, 32;—to be filled up by committee, 63.

Exceptional practice of originating rates of toll in committee of whole in some instances, 63;—inexpediency of this course demonstrated, 64.

*Canal Bills :—See Railways ; Tolls.**Casting Vote :*

Chairman of any committee on private bills (and no other) has a second or casting vote, 45, 97.

Clearing of Room :

Committee room may be cleared for discussion, 54.

Committee of whole on private bills :

All bills, after report, referred to a committee of whole, 71.

Two or more bills may be referred together, 72.

Counsel heard (on one occasion) against a bill, at this stage, 72.

Amendments of select committee, not treated as amendments in committee of whole, but bill considered as a whole, 74.

Instructions to committee, mandatory or permissive, 74.

No amendment irrelevant to the bill can be made without an instruction, 75.

Notice must be given of amendments to be proposed in committee, 76, 98.

Course of proceeding in committee, 76.

No amendment can be proposed to a clause after committee has passed on to another clause, 76.

Report bill to the House, 77.

Rise without reporting; bill then regarded as defunct, but may be revived, 78.

Proceedings in the House, after report, 73.—Bill may be re-committed, 46.

Committees (Select) on private bills :—See *Private Bill Committee*; *Railways*

Competition :

Parties may be heard against a bill on the ground of competition, 53.

Conference with L. Council :

On disagreeing to their amendments to bills, 81.

Consent of parties :

Proof thereof required, in certain cases, 43, 67, 79, 97.

Consolidation of bills :

Power may be given to a committee to consolidate two or more bills into one, 68.

Counsel :

Heard at the Bar against the second reading, 35;—after report of committee, 72;—At the Bar of the L. Council, on Divorce bills, 85.

Promoters or opponents may be heard before the committee by counsel, 50.

No member of the House can act as counsel, 51.

A member of the other House may so act, by special leave, 51.

Crown, Rights of :

Queen's consent signified at third reading, to any bill affecting the property or interests of the Crown, 79;—to a bill for reversal of an attainder, before the first reading, 86.

Denison, Right Hon. J. E. :

Evidence of Right Hon. J. E. Denison, Speaker of House of Commons, on private bill legislation, 73.

Divorce Bills :

Introduced first into the Legislative Council, 5.

To be prepared by petitioner, and printed at his expense, 105.

Special notice, and other preliminary proceedings to be proved thereon, 20, 102, 103.

Fee paid on presenting petition, 38, 83, 105.

Fourteen days to elapse between 1st and 2nd readings; with service of notice thereof, 84, 103.

Examination of petitioner and witnesses, at second reading, 84.—Mode of summoning witnesses, 85, 103, 104.

Counsel heard on bill, 85, 104.

Referred, after second reading, to a committee of whole, in the Council, 85;—to a select committee, in the Assembly, 38.

Evidence taken before the Council applied for by Assembly, and referred to committee, 86.

Reference to be had to practice of the Lords, in unprovided cases, 85, 105.

Estate Bills:

Usually originate in House of Lords, 5.

Evidence:

House may require evidence to be reported, on which committee have decided that preamble is not proved, 59.

Committee of Assembly may request that the evidence taken on a bill originating in the Council be laid before them, 62.—The like course by a committee of Legislative Council, 88.

Evidence taken by committee not reported, except by special order, 69.

Examiner for Standing Orders:

Appointed by L. Assembly, to report to Committee on Standing Orders concerning the notices given on petitions for private bills, 17.

The same Examiners appointed for both Houses of Imperial Parliament, 17. (Note.)

Extension of powers:

Extension of powers of a company to purposes foreign to the original charter, a ground for declaring preamble not proved, 58.

Evidence of consent of shareholders required by the Lords, on every bill empowering an existing company to execute works other than those for which it was originally constituted, &c., 82. (Note.)

Bill should not be amended by the committee so as to enlarge its operations, 60:—but they can recommend the same to the House, 67.

*Fees:—See Fines.**Fees on private bills:*

Payable after second reading, on all bills for any object of profit or advantage. 37, 96;—in the House in which they originate only, 38, 96.

Charges for printing, &c., levied at the same time, 37.

On Divorce Bills, in L. Council, 38, 88.

Higher rates recommended for certain bills, 88.

Motions for refunding fees should be referred to the committee on bill, 40.

Fees charged in House of Commons, 39. (Note.)

Refunded in certain cases, by order of the House, 39.

Fines:

Amount of any fines or fees to be imposed, to be printed in bill in italics, and to be filled up by the committee, 32, 63.

Government Trusts:

Bills relating to Government Trusts or Commissions, treated as public bills, 8.

Harbour Bills :—See *Tolls*.

Informal introduction of bills :

Bills which have been informally introduced withdrawn, and new ones presented, 32.

Instructions :

To Standing Committees on private bills, 42, 68.

To a committee of whole, 74.

Object and effect of an instruction, mandatory or permissive, 75.

Justice, Administration of :

Local bills relating thereto treated as public bills, 8.

Law-suits :

Interference with pending suits, a ground for declaring preamble not proved, 58.

Legislative Council :

Assimilation of their Private Bill Rules to those of the Assembly, 3.

Bills from the Council reported on by Committee on Standing Orders, after first reading, when no previous report has been made on a petition, 16, 94.

Divorce Bills introduced first in the Council, 5.—Bills for reversal of attainders, or for the restoration of honors, 86.

Proof of notice, and other preliminary proceedings in Divorce cases, in the Council, 19.

Bills presented in the Council, without a motion for leave, 81. (Note.)

Evidence taken on bills originating in the Council, communicated to committee of the Assembly, when required, 62.—The like, in the Council, with regard to bills originating in the Assembly, 83.

Amendments of the Council to bills from the Assembly, are referred to the same committee of the Assembly to which the bill was originally referred, 80, 99.

—Practice in L. Council with regard to amendments of the Assembly, 80, 99.

Conference with the Council on amendments disagreed to by Assembly, 81.

Letters Patent :

Copy thereof to be attached to any bill for confirming the same, 32, 96.

Omission to attach the same, in a certain case, rectified by the House, 32.

Locus standi :

Of parties petitioning against a bill, 53.

Lords, House of :

Certain classes of bills originate therein, 5.

Arrangement between Lords and Commons concerning the bills to be first considered in each House, 5.

Members :

May not act as Parliamentary Agents, 11.

The member presenting a petition takes charge of the bill through its different stages, 12.

May not act as counsel, before the House of which they are members, or any committee thereof, 51.

Members of the other House may so act, by special permission, 51.

Attendance of a member for examination as a witness, 54, 55;—of a Peer, 54. (Note.)

Right of members (not of the committee) to be present, 55.

Name Bills :

Usually originate in House of Lords, 5.

Naturalization Bills :

Usually originate in House of Lords, 5.

Notices of applications for private bills :

Notices required on ordinary private bills, 18, 92;—toll-bridge bills, 19, 92, 94;—divorce bills, 20, 84, 102.

Certain applications exempt therefrom, 21.

Reported on to Committee on Standing Orders (in L. Assembly) by the Examiner, 17.

Reported on by Committee on Standing Orders, without special reference, 16, 94.

Proof of compliance with Rules relative to notice, 18.

Want of notice, in some cases, supplied by a provision in the bill for the protection of interests of other parties, 22, 29.

Evidence of publicity admitted to supply want of formal notice, 23.

Suspension of the Rule may be recommended on certain grounds, 24.

No motion for suspension of Rule can be entertained till committee has reported, 26.

Insufficient notice being reported (without a favorable recommendation) stays all proceedings, 27.

Notice must be specific and clear, 27.

Petitioners restricted within the terms of their notice, 29.

Additional evidence of notice admitted, after an unfavorable report, and supplementary report made thereon, 30.

Not to be enquired into by committee on bill, 43; except to compare provisions of bill with the terms of the notice, 44.

Committee on bill may not insert any new provisions, except such as are covered by the notice, 60;—but may confine its provisions within terms of notice, 66;—Any extension beyond such terms may be recommended to the House, 67.

Notice of consideration of bill :

1 week's notice to be given by committee (in the House in which it originates) on any bill requiring notice under 51st Rule, 36, 96;—24 hours' notice only required on bills from the other House, 36.

Usually reduced, near close of Session, 48.

Occasionally dispensed with, 49.

Notice of new provisions :

No new provisions may be inserted in bill, by which the interest of parties not represented before the committee can be affected, without due notice to such parties, 67.

Notice to be given of amendments proposed in committee of whole, 76, 98;—after report of committee of whole, 78, 98;—at third reading, 76, 98.

Notice of suspension of Rules :

No Standing Order relative to private bills suspended without due notice, 80, 99.

Officers of the House :

May not act as Parliamentary agents, 11.

Opposition to private bills :

Unusual at second reading, except on general principles, or on the ground of interference with public rights, 35.

Before select committee, 49.

In the House, after report of committee, 72.

Petitions against a bill stand referred to committee thereon, 35, 96.

Arrangement between the parties for selection of a day for considering an opposed bill, 48.

Opponents should present a petition, specifying grounds of objection, 49.—

Limited to the grounds so stated, 50.—May be heard by counsel, *ib.*

Opposition held to be abandoned, if no parties appear when petition is read, 50.

Locus standi of opponents, 53.

Opposition to clauses, 62.

Orders of the Day :

Place assigned to private bills on the Orders of each day in the week, 34.

Parliamentary Agents :

Employment of, in Legislative Assembly, 10.

Cannot act without the authority of the Speaker, 11, 100.

Mode of qualifying, 11.

Members and officers of the House disqualified from acting, 11.

Registered, 12.

Subject to a prohibition to practise, for any violation of the Rules or practice of Parliament, 100.

Petitions:

- Every private bill to be based on a petition, 13. (Form in Appendix III).—A bill rejected, not being founded on a petition, 13.**
- Not to be signed by agents, but by the parties themselves, 13.
- Mode of presentation to each branch of the Legislature, 13.
- Time for presentation limited, 14, 91.—Extension of time, 14.
- Mode of proceeding for obtaining leave after expiration of time, 15.
- Reported on by Committee on Standing Orders, without special reference, 16, 94.
- Petitions for or against bills stand referred to the committee thereon, 35, 96.
- Petitions should be presented by opponents, specifying grounds of objection, 49.
—Petitioner limited to the grounds so stated, 50, 54.
- Petitioners may be heard by counsel, 50.

Preamble:

- Question put on preamble before clauses (in private bills), 52.
- Petitions against preamble, 49.
- Petitioners against particular clauses only, not heard against the preamble, 54.
- If preamble be not proved, the decision to be reported, with the reasons therefor, 56, 98.
- Committee cannot re-consider and reverse such decision, 56;—unless authorized by the House, 56, 59.
- House may require the evidence on which decision was based, to be reported, 59.
- Alterations in preamble, to be specially reported, 60, 98.
- Power to make alterations limited within terms of petition and notice, unless by permission of the House, 60.
- Preamble proved, 62.

Previous question:

- Cannot be moved in committee, 61.

Principle of bill:

- Affirmed conditionally at second reading, subject to proof of allegations in preamble, 84.

Printing of private bills:

- To be printed (such as relate to Lower Canada, in both languages) before second reading, 31, 95.
- French version occasionally dispensed with, 31. (Note.)
- To be re-printed, after amendment by committee, if amendments are extensive, 69.

Printing of private bills—continued :

Promoters charged with the cost of printing 500 in English and 250 in French, with the Statutes, if passed, 27, 96.

Bill may be re-printed when reported by committee, if amendments are extensive, 69.

Printing of Private Acts, 88.

Private bills :

Proceedings in passing the same, of a judicial character, 1.

Origin and progress of Private Bill system in Canada, 2.

Alpheus Todd's Report on the subject, in 1847, 2.

Assimilation of practice in the two Houses, 3.

In which House they may originate, 4, 83, 86.

Definition of a private bill, 6.

Semi-private bills, 6.

Divorce Bills,—See *Divorce Bills*.

Certain classes treated as public bills, 8.

Notices required,—See *Notices of applications for private bills*.

To be based on a petition, 13, 95.

Presentation of bills (after proof of Notice), 31, 95.—Limitation of time, 32, 91.

To be prepared in both languages, by the promoters, 31.

To be printed before second reading, 31.

Bills informally introduced withdrawn, and new bills presented, 32.

Precedence given to private bills on certain days, in the Assembly, 34.

Second reading, and proceedings thereat, 34.—Counsel may be heard, 35.

Referred to a Standing Committee, 35.—Divorce bills, to a committee of whole, in the Council, 85;—and to a selected committee, in the Assembly, 36.

Proceedings before standing committee,—See *Private Bill Committee*.

Opposition before committee,—See *Opposition to private bills*.

Extension of operation of a private bill so as to change it to a public bill, 67.

Proceedings in House, after report of standing committee, 71.

Consideration in committee of whole, 72.—See *Committee of whole*.

Notice to be given of amendments proposed in committee of whole, 76, 98.—
After report, 78.—Or at third reading, 79, 98.

Proceedings in House, after report of committee of whole, 78.

Re-commitment of bill, 78, 79.

Third reading, 79.

Queen's consent signified at this stage, when rights of Crown are affected, 79.

Bill passed and sent to Legislative Council, 79.

Private bills—continued:

- May, in case of urgency, be advanced two or more stages in one day. Notice required of a motion for suspending a standing order, 80.
- Returned from Legislative Council, with amendments; amendments referred, 80.
- Conference desired on disagreeing to certain amendments, 81.
- Bills from Legislative Assembly not proceeded with in Legislative Council; committee to search journals, 81.
- Proceedings on bills in Legislative Council, 82.
- Royal Assent, 88.
- Can be judicially noticed, when containing the "Public Act" clause, 88.
- Printing of Private Acts, 88.

Private Bill Committee:

- Appointment and powers, 41.
- All private bills (not referred to another standing committee) referred to this committee; Petitions for and against stand referred, 35, 96.
- Instructions, 42.
- Not to entertain questions relative to compliance with standing orders (notices) unless specially directed, 43.
- To give notice of day appointed for consideration of certain bills, 36.
- To ascertain whether the provisions of the bill agree with the terms of the notice, 44.
- Casting vote of chairman, 45, 97.
- Each member of committee present should vote on every question, 46.
- Committee cannot sit (without special leave) during sitting of the House, 46.
 - Leave given in House of Commons to sit during morning sittings of House, 47. (Note.)
- Notice to be given of consideration of certain bills, 48, 96.
- Proceedings in committee, 48.
- Filled-up copy of bill to be deposited before day for consideration thereof, 51, 97.
- Preamble read, and petitions against, 52.
- Promoters then heard, and petitioners afterwards, 53.
- Petitioners against particular clauses only, not heard against preamble, 54.
- Locus standi* of petitioners, 53.
- Examination of witnesses, 53, 54.
- Committee room an open court, 54.
- Room cleared for deliberation, 54, 55.
- Right of members (not of the committee) to be present, 55.
- Question put on preamble, 56.
- If not proved, to be so reported, and the reasons assigned, 56, 98.

Private Bill Committee—continued:

Committee cannot re-consider and reverse such decision, 56;—unless authorized by the House, 56, 59.

House may require the evidence on the preamble to be reported, 59.

Alterations in preamble, to be specially reported, with reasons therefor, 61, 98.

Power to make alterations limited, 60.

Committee cannot amend bill so as to extend its operations, without leave of the House, 60.—Exceptional case, 61.—But can recommend that its provisions be so extended, or that it be made a public bill, 67.

Proceedings on clauses, after preamble is proved, 62.

Unusual provisions in the bill to be specially referred to in report, 62, 97.

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