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R E P O R T
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;
AND
AN APPENDIX
OF
STANDING ORDERS.

Prepared by order of the Legislative Assembly.



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“ LEGISLATIVE ASSEMBLY,

9th June, 1846.

“ On motion of the Hon. Mr. ROBINSON,

“ Seconded by Mr. GOWAN,

“ *Resolved*,—That Mr. Speaker be authorised to take such steps, during the ensuing recess, as he may deem necessary, for the purpose of causing an Enquiry to be made into the system pursued in the House of Commons in regard to Private Bills, and a Report to be made, embracing such Resolutions and provisions as may appear adapted to the circumstances of the Province ; the same to be submitted to the House at the next Session.”

Attest,

W. B. LINDSAY,

Clerk Assembly.

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REPORT ON PRIVATE BUSINESS.



REPORT

ON THE

MANAGEMENT OF PRIVATE BUSINESS.

THE principles of private Legislation differ so materially from those which govern the proceedings of Parliament upon Bills of a public nature, that it is reasonable to suppose that the machinery by which the one is effected, should also be of a different character from that made use of in framing and perfecting the other. Introduction.

The origin of Private Bills dates back to a remote period of our constitutional history ; to times when the aid of Parliament in redressing private wrongs, irremediable by the ordinary Courts, and in conferring peculiar powers, beside the general law of the land, was constantly sought for by the subject. After the establishment, in England, of Courts of Equity, and the introduction of powers into the settlements of real estates, which grew out of the Statute of Uses, (27 Henry VIII. ch. 10,) the necessity for a numerous class of such applications to Parliament ceased. But with the growth of society, and the introduction of the new and conflicting interests which commerce and social refinement have so extensively created, other classes of applications, of a still more difficult and complex description, have arisen, to determine which the intervention of the mingled Legislative and Judicial authority of Parliament is necessary. For in passing Origin of Private Bills.

Their two-fold character.

Private Bills, while Parliament still exercises its Legislative functions, its proceedings partake also of a Judicial character. The persons whose private interests are to be promoted, appear as suitors ; while those who apprehend injury are admitted as adverse parties in the suit. Much of the formality of a Court of Justice is maintained ; various conditions are required to be observed, and their observance to be strictly proved ; and if the parties do not sustain the Bill in its progress, by following every regulation and form prescribed, it is not proceeded with by the House in which it is pending ; and if they abandon it, and no other parties undertake its support, the Bill is dropped, however sensible the House may be of its value.*

Object of this enquiry.

With these preliminary observations, I proceed to enter upon the execution of the duty entrusted to me, of describing the system now pursued by the House of Commons in the transaction and management of its Private Business ; and respectfully to recommend, for the consideration of the Legislative Assembly, the adoption of such Orders as may seem best calculated, under present circumstances, to introduce into the practice of this Honourable House, sound and efficient regulations on this important subject.

Practice heretofore pursued on Private Bills in Canada.

Hitherto no attempt has been made, either in the Legislatures of Lower or Upper Canada, prior to the Union, or in that of the United Province, to introduce a definite system with regard to Private Bills ; one that should recognize the judicial character in which Parliament is called upon to decide between the con-

* See May on Parliament, 385, who mentions that in 1828 the Manchester and Salford Improvement Bill was abandoned in Committee by its original promoters, when its opponents, having succeeded in introducing certain amendments, undertook to solicit its further progress.

flicting interests of rival parties, and secure the public from an encroachment on their rights for the aggrandizement of individuals. So little, indeed, has this question been understood, that no attempt to define the distinction between a Private and a Public Bill has ever yet been made by any Legislative authority in Canada; and Private Bills have been frequently introduced and proceeded upon, in our Provincial Legislature, without even the restraint and protection afforded to the public by the scanty Orders that exist to regulate their mode of enactment. Such laxity of procedure opens an extensive field for the commission of much injustice, by affording an opportunity to designing individuals, to obtain the sanction of the Legislature to measures, which, if fully examined and understood, would be at once rejected. The serious attention of the House having been, however, at length directed to the subject, it is hoped that its Private Business may be ere long established on an efficient and satisfactory basis. In aid of this, the information contained in the following pages has been carefully collected.

The plan which, after much reflection, it has been thought advisable to pursue, is to divide the Enquiry into two parts; the first, describing the irregularities originally existing, and the gradual improvements successively introduced, in the practice of the Imperial Parliament, which, in this as in other particulars, we take as our model; and secondly, suggesting the regulations it might now be expedient to adopt, to lay the foundation of the contemplated improvements here.

Plan of this Report.

In the first section, it is proposed to proceed step by step, commencing at the earliest stage of the application and accompanying it to its final issue, examining, as we proceed, the arguments for and against the particular course of practice in question, stating

Of the first section.

the necessity for its adoption, and the benefits which in England have resulted from its use. This method seems the more preferable on considering that before the introduction of the regulations now in force in England, complaints were numerous of the evils arising from the want of a proper system, and that since then, the gradual amendments effected have been exposed to the keen criticism of interested parties and the vigilant oversight of some of the ablest Members of the House of Commons, so that there is little probability of any well founded objections to any portion of the new improvements having escaped observation. In this section, therefore, I purpose to state nearly all that will be offered by way of argument, and in the second part, to confine myself to a concise mention of such changes as I would venture to suggest, as advisable to make in our own practice at the present juncture.

Of the second section.

On examining the second section, it will be seen that the improvements recommended do not involve a very extensive alteration of the existing Orders of the House. There is great danger, in every undertaking, in attempting too much at once. It has, therefore, been thought that more good might be effected, at the outset, by a clear and simple delineation of the admirable system in the management of Private Business, now enforced by the House of Commons,—so as thoroughly to inform the minds of Members of its nature and purport, and give them an idea of its working,—than in any other way. This will enable them to proceed with judgment to make such changes as may seem now expedient, and to perfect their undertaking, from time to time, as circumstances may require.

Definition of a Private Bill.

I. In commencing our Enquiry, it is material to define, accurately, what measures are comprehended

under the generic appellation of Private Bills. Much Part I.
misapprehension has existed on this point, and a large
portion of the Private Bills annually introduced into
our Legislature have hitherto, as will be hereafter
shown, been dealt with as Public Bills, because the
distinction between them was not sufficiently under-
stood.

The Orders of the House of Commons recognize
two general distinctions between Public and Private
Bills; one, as to the manner of their originating; As to the
mode of its
Origina-
ting.
the other, as to their liability to the payment of fees.

The first was established by the Standing Order
of the 15th February, 1700, which simply provides
that "no Private Bill be brought into the House but
upon petition first presented, truly stating the case,
* * * * * to be signed by the parties who
are suitors for such Bill."

The second is recognized by the Resolutions of the As to its
liability of
Fees.
13th June, 1751, which declare that "every Bill [^{or}
clause[]] for the particular interest or benefit of any
person or persons, whether the same be brought in
upon petition, or motion, or report from a committee,
or brought from the Lords," is "a Private Bill [^{or}
clause[]] within the meaning of the Table of Fees."
The payment of fees on Private Bills, though now
regulated by this Order, is of great antiquity, being
referred to as "according to former precedent," so long
ago as 1607^(a).

The first mentioned Order is construed, in practice, As to the
mode of its
Origina-
ting.
to comprehend every Bill that has only a special or
particular operation, whether it be for the interest of
an individual, a public company or corporation, a
parish, a city, a county, or any other locality^(b); or

(a) 2 Hatsell, 281.

(b) May, 383; and even a Bill for the benefit of three counties
has been held to be a Private Bill—2 Hatsell, 281.

Part I. finally, if it be intended for the benefit of a particular section of a generality; as distinct from a Bill which concerns the whole commonwealth, though only in a special or particular thing. For further elucidation they may be thus classified:

1st. Bills for effecting any *local* purpose, such as inclosure, drainage, road or navigation Bills; Bills for building, maintaining, &c., bridges, churches, piers, workhouses or prisons; for making, &c., docks and harbours; or for improving cities, towns, or fisheries in particular places.

2nd. Bills which have only a *personal* operation, as naturalization, name, divorce, peerage or estate Bills; and all Bills affecting any corporation, company or institution.

3rd. Bills which, though not strictly of a local or personal nature, have only a special operation; or which, in other words, relate only to a particular *species* of a generality; as Bills for regulating the trade of pawnbrokers, the calling of pilots, or the leases of bishops^(a).

Excep-
tions.

The only exceptions to the operation of these Rules are in cases where Bills are introduced or proposed on behalf of the Crown, either for the general purposes of empire—when they may be introduced on mere motion, and are not liable to fees^(b)—or, to enable the Government to carry out certain Public Works^(c)—or, generally, Private Bills introduced officially by Members of the Administration^(d)—which may also be brought in by way of motion; but, in every other

(a) Bramwell on Bills, 10, 11.

(b) 2 Hatsell, 283*n*.

(c) See the Lagan Navigation Bills in 1841 and 1842; the Knightsbridge and Kensington Openings Bill, and the Victoria Park Bill, in 1842.

(d) See the Bill respecting the Assessment of Grand Jury Presentments in the County of the City of Cork, in 1842.

respect, their progress through Parliament is subject to all the regulations prescribed for the conduct of Private Bills, and they are not exempt from the payment of fees^(a). Part I.

The second Order, above mentioned, respecting Fees, often occasions considerable difficulty in its construction, especially as regards the one or more "double fees" authorized to be taken by it, in cases where provision is made in a Bill for the benefit of more than one distinct interest; such questions, however, are generally settled by a reference to the practice of the House in similar cases^(b). Fees.

Before the introduction into Parliament of by far the greater proportion of Private Bills, Public Notices of the intended application are required to be given. The Notice varies both in nature and extent, according to the class of the application, and the circumstances connected with it. It is unnecessary to go into any detail respecting Notices; in so far as they concern our present purpose they will come under observation in the second section, and it will suffice here to refer to the Standing Orders, where they are fully described and provided for^(c). Notices

According to the original practice of the House of Commons, but little preliminary investigation into the merits of a private application took place before Former practice in the House of Commons on Private Bills.

(a) May, 402 ; 2 Hats., 285 n. And see the Primrose Hill Bill, in 1842, which, though introduced by motion, on behalf of the Crown, was not allowed to proceed, except on condition of supplying a deficiency in the compliance with the Standing Orders,—(Commons' Journals, v. 97, p. 357.) See also Sessional Papers, House of Commons, 1843, v. 30, p. 472,—an entry of payments made on behalf of Government, through its Solicitors, for expenses of passing Private Bills. The Return itself (p. 459, &c.) is a detail of the amount of expenditure for the Law Expenses of Public Departments.

(b) Bramwell, 13.

(c) S. O. H. of C. 1845, No. 14, &c.

Part I. the committal of the Bills. At that period, Committees on Private Bills consisted of the Member charged with the care of the petition, such other Members as he might choose to name in the House, and a list of Members serving for a particular county (usually the one connected with the object of the Bill,) and the adjoining counties; in this way each committee would consist of from seventy to two hundred Members; in practice it was open to all or most of the Members of the House who chose to attend^(a).

Subsequent alteration.

It was afterwards found expedient to reduce the number of Members serving on these Committees, and in 1826 the Speaker was directed to form a new distribution of the "County Lists," to consist of one hundred and twenty Members each, one-half of whom, placed *above* a division line in the selection for each county, were taken from that and the adjoining counties, and the other half, placed *below* the line, were taken promiscuously from the counties^(b). Each Bill was referred to the list for the county with which it was connected; and the Members named therein, with such others as the House, on the application of any Member, might order to be added to them, constituted the Committee on such Bill. By this mode of appointment it was considered that a due proportion was preserved between the number of committee-men locally connected with the object of the Bill, and those not so connected. The quorum of each Committee was five, but after the commencement of business, any number from one to one hundred and twenty were allowed to proceed.

(a) Report on Private Business, 1825, p. 2, 3. See Romilly's Memoirs, vol. 2, pp. 190—193, wherein several flagrant instances are given of objectionable provisions finding their way into Private Bills, from the careless and insufficient method of legislating upon them. They occurred in the Sessions of 1810 and 1811.

(b) C. J. v. 81, p. 258.

The complaints made against these Committees were, that canvassing for votes was openly practised ; that Members came in to vote without having heard a word of the evidence ; and that consequently, in investigating matters which chiefly depended on evidence, the Committees by no means conducted themselves as judicial bodies, but suffered private interest and personal feeling greatly to influence their decisions.

Part I.
Effects of
this imper-
fect sys-
tem.

The natural effect of this imperfect system became speedily manifest. During its prevalence many projects were smuggled through the House, of so flagrantly unjust a nature, that, but for the interposition of the other branch of the Legislature, the consequences would have been serious ; and, notwithstanding the supervision exercised in the House of Lords, there can be no doubt that the House of Commons did, at this time, in ignorance and unwittingly, sanction many measures more or less injurious to the public and oppressive to individuals, which, had it been aware of their purport, it would have summarily rejected.

As an example, I would mention the "Glasgow Lottery" case, which excited much discussion at the time, in the House of Commons. The circumstances attending it were briefly these : In 1831, a Private Bill was introduced "to amend certain Acts, passed in the Reign of George IV., for opening a street from the Cross of Glasgow to Monteith Row." In it was fraudulently inserted a provision authorizing the drawing of a Lottery for the sale of certain property in that Town. Lotteries, though formerly used by Government as a source of revenue, had ceased to be made use of for that purpose from the year 1823, when the last Government Lottery was held. The principle of such schemes had since been loudly con-

Glasgow
Lottery
case.

Part I.

demned, and a law passed for their suppression.* In this instance, however, the provision in question escaped the observation of the House, partly by the skilful way in which it was inserted, and partly through the careless mode of proceeding on the measure. The Bill became law^(a), and the Lottery, being clearly legalized thereby, could not be forbidden; accordingly three successive drawings took place; when, in 1834, another Act was passed^(b) prohibiting any further Lotteries being drawn under colour of the said first mentioned statute. Other instances occurred, of Bills to incorporate trading companies containing provisions whereby the members of the Company have got rid of individual liability; and of Bills authorizing the imposition of passing Tolls, for the benefit of some Dock or Harbour Company^(c). Cases such as these, when brought under the notice of the House, shewed the paramount necessity for some change of system which should prevent their recurrence, and sufficiently protect public and private interests from suffering by means of local legislation.

Other cases.

Sessional Committees on Private Business.

To devise a proper plan for this purpose, Sessional Committees were appointed by the House of Commons, for several years in succession, wherein much attention was bestowed on the various points connected with the subject; and which have succeeded gradually, and by careful experiments, in perfecting the present judicious system.

* See the Act 4 Geo. IV., ch. 60, § 19, 20.

(a) *Vide* the 1 and 2 Will. IV., ch. viii.

(b) *Vide* 4 and 5 Will. IV., ch. 37.

(c) See also the proceedings in the House with regard to the Welch Iron and Mining Company Bill, and the London and Westminster Oil Gas Company Bill, in the year 1825,—Hansard's Debates, (N. S.) v. 13, pp. 783, 1012.

The species of information upon which every Private Bill is founded, being local and minute, it necessarily follows that, to arrive at any satisfactory conclusion as to the expediency of a proposed measure, the previous intervention of a Committee is requisite, to ascertain the facts whereupon the propriety of granting or refusing the application will depend. To enquire into these facts, the Committee on the Petition was originally established. Its constitution was, at first, the same as that of the Committee on the Bill ^(a), both being principally formed from the Speaker's Lists. The Committee on the Petition was not then, as at present, merely, or at all, empowered to enquire into compliance with the Standing Orders. It seems to have originated in the ancient practice of requiring all measures tending to impose a burthen on the subject to be first considered in a Committee of the House; and the reference to a Committee was confined to those Bills by which tolls or duties were proposed to be levied. The duty of this Committee was, in fact, to enquire whether a *primâ facie* case was made for the Bill, such as to justify the levying the proposed tolls; and afterwards, when it was thought expedient to frame Standing Orders, requiring public notice to be given of the intention to apply for any such Bill, and it became the first duty of the Committee on the Petition to enquire into compliance with those Orders, it still continued within their province to enquire, generally, into the merits of the application. In the terms of the reference, they were "to examine the matter of the petition, and report the same, as it should appear to them, to the House." The Committee on the Bill, under the form of enquiring into the truth of the preamble, repea-

Part I.
Committee
on the Pe-
tition.

Its duties
formerly.

(a) C. J. v. 82, p. 41.

Part I.
Committee
on the Pe-
tition.

ted the enquiry already made before the previous Committee, as to the general merits of the Bill, but with this difference, that before the Committee on the Petition the enquiry was *ex parte*, and before the Committee on the Bill parties were allowed to be heard against the Bill; and with respect to such applications as were not required to be referred to the Committee on the Petition, they enquired into the compliance with the Standing Orders. In addition to this, it was their duty to examine in detail the provisions of the Bill.

But by degrees, as the various Standing Orders were adopted, requiring Notices to be given and consents of interested parties to be obtained, before making the application to Parliament,—due examination into the observance whereof generally devolved upon the Committee on the Petition, as a preliminary enquiry—it came to be considered that the Standing Orders were their peculiar province, and that the enquiry into the preamble belonged to the Committee on the Bill. This enquiry, in so far as it had been conducted by the first Committee, had always been *ex parte*, and very imperfectly executed, so that but little reliance was placed upon it by the House.

Its present
powers.

Accordingly, one of the first changes effected by the House, in the management of Private Business, was to deprive the Committee on the Petition of all authority to examine into the general merits of the application, and to confine their enquiry strictly to the question of fact, whether the Standing Orders, as to matters preliminary to the bringing in of the Bill, had or had not been complied with. That this alteration in the practice was a decided improvement will, it is submitted, be sufficiently apparent on view of the following considerations:—

In the first place; to proceed to discuss the merits of an application for a Private Bill at this, the earliest stage in which it is possible to examine it, is contrary to the analogy of the practice with regard to Bills of a public nature. Public Bills, it is well known, are rarely debated or opposed on their presentation or first reading in the House; and this practice is founded on sound principles of justice and expediency, for, to dispute the correctness of the *provisions* of a bill at this stage, is to imply that its *principle* is good, and to question the principle before Members have had an opportunity of examining their printed copies, and weighing its propriety, is, except in peculiar cases of notorious objection, manifestly improper. In like manner, with regard to Private Bills, opposition at this early period operates unfairly, by depriving the promoters of the Bill of the advantage they ought, in justice, to possess, of being allowed every facility to make out their case, and prove, by argument and testimony, its entire reasonableness.

Again; although it is true that no more than a *primâ facie* case, in support of the petition, has ever been required at this stage,—for to admit of more would be to deprive the Committee on the Bill of its chief duty, and enable an adverse Committee to throw out a measure to which they were unfriendly, practically without an appeal from their decision, the House being in possession of no facts respecting it, but such as they might choose to report,—yet it is against the expediency of any examination whatever, of the merits of an application, before the Committee on the Petition, that this argument is directed. In the House of Commons, before the present system was adopted, and while it was still the duty of this Committee to obtain from the petitioners merely the substantiation of a *primâ facie* case in

Part I.

Committee
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Part I.
 Committee
 on the Pe-
 tition.

favour of the Bill, so as to justify its introduction, there existed a Standing Order, prohibiting any petitioners to be heard against the application until after the Report of this Committee. But, notwithstanding the obvious intention of this Order, it appears to have been, not unfrequently, evaded, by adverse parties supplying some Member inimical to the Bill with such questions as they would have put, were they permitted to oppose it, and who, by availing himself of his privilege as a Member of the Committee to ask any questions and call for any evidence he thought proper, would raise an opposition at this stage of the business, which it was the express object of this Order to prevent^(a).

By confining the Committee on the Petition to the simple question of fact, as to the compliance of the applicants with the Standing Orders, affecting their petitions, all these objections are obviated.

Benefits to
 local le-
 gislation of
 present
 practice.

But there is another, and still more important reason, to justify this restriction of the powers of the Committee; and one, moreover, having a direct bearing on the general question of the improvement of the management of Private Business. The House, it should be observed, in matters of local legislation, has a two-fold duty to perform; first, as regards the individual application before it; and secondly, with reference to the Rules, Orders and Practice, whereby that and every similar application must be governed and determined. Too great a stress cannot be laid on the necessity for a plain and obvious meaning in the Standing Orders of the House, regulating Petitions for Private Bills, and the Proceedings thereon; and for an impartial and undeviating construction of those Orders on all points of doubt and difficulty that may

(a) Sherwood on Private Bills, 8, 9

arise concerning them. On these two essential particulars depend, not only the probable success or failure of an applicant for Parliamentary relief, in proving a satisfactory compliance with the directions of the House ; but also the character of the House itself, as a tribunal to which all may safely resort for uniform and impartial justice. If then you confide to one Committee, the purely judicial office of adjudicating on the question as to whether a due compliance with the requirements of the Standing Orders has been made, and also of reporting on the expediency of the proposed enactment, it is impossible but that a consideration of the apparent advantages of the latter should not sometimes outweigh the regard which is due to the former ; and that, with a view to favour the applicants for a particular measure, their non-observance of the Standing Orders should be lightly considered, or altogether overlooked. The effects of this, at the time, may seem trivial, but a precedent is thus established of a departure from the strict rules of Parliamentary procedure, on behalf of a private individual or company, that will render future applicants more careless of their duties to the House and to the public, and entitle them to claim a similar indulgence in favour of the enactment they are seeking to obtain ; which, if granted, would speedily render the Rules of the House a dead letter ; and if refused, would too much resemble a departure from that strictly impartial conduct which should ever characterize the proceedings of the House. In one word, the task of determining upon the construction of Standing Orders, is purely legal, and that of authorising the carrying out of a particular project, is chiefly legislative ; and these two functions should never be combined in the same tribunal, when it is possible to avoid it.

Part I.
 Committee
 on the Pe-
 tition.

Part I.

 Committee
 on the Pe-
 tition.

 Present
 practice
 explained.

Having examined the objections that might be urged against thus limiting the powers and duties of the Committee on the Petition, I now proceed to point out, more clearly, the actual practice with regard to that Committee, now prevailing in the House of Commons.

At the commencement of every Session, a Committee is appointed by the House, called "The Select Committee on Petitions for Private Bills," consisting of forty-two Members, with power to divide itself into Sub-Committees,* of seven Members each. It is customary to re-appoint, as near as may be, the same Members in each succeeding Session, which confers upon the body something of a permanent character, with the advantage of the experience derived thereby.

Before one of these Sub-Committees, the compliance with the Standing Orders has, in every instance, to be proved; and parties are allowed to be heard upon petitions complaining of non-compliance with the Standing Orders, presented to the House three days before the Committee sits.

The proceedings of the Sub-Committees are conducted in a regular and solemn manner; books are kept by the Committee-clerks, wherein all material cases are entered; the decisions are recorded; the Chairmen of the several Committees communicate with each other on the controverted points, by which a great uniformity of decision is obtained; and the books present a series of precedents of the most satisfactory description, for the guidance of future Committees^(a).

* The Chairman of the Committee on Petitions is also Chairman of one of the Sub-Committees.

(a) Sess. Papers, H. of Commons, 1837-8, v. 10, p. 212.

The quorum of the Sub-Committees is five, in opposed cases, and three in unopposed cases. Their duty is simply to enquire whether the Standing Orders have or have not been complied with; and if they report in the negative, they must state the facts upon which their decision is founded, and any special circumstances connected with the case.

Part I.
Committee
on the Pe-
tition.

If the finding of this Committee be against the petitioners, their application is not necessarily lost, but the matter is then referred to another Committee called "The Select Committee on Standing Orders." This Committee is also appointed at the beginning of every Session, and consists of eleven members,—including the Chairmen of the Committee and Sub-Committees on Petitions for Private Bills,—of whom five are a quorum. It is their office to determine upon the facts found by the former Committee, whether it is, or is not, expedient to extend to the petitioners the indulgence of the House, by accepting their partial compliance with the Standing Orders; and whether, in their opinion, the parties should be permitted to proceed with their Bill, or any part of it; and if so, under what conditions, (if any); as, for example, after giving certain notices, publishing advertisements, lodging plans, &c., when such conditions seem advisable.

Committee
on Stan-
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ders.

The necessity for this Committee,—as a separate and distinct tribunal, with exclusive powers to determine upon the propriety of relaxing the Standing Orders, in peculiar instances, where such relief might reasonably be granted, or of maintaining them in their integrity, when no cause to the contrary appeared,—arose from the growing laxity of the House in this important particular, and the increasing frequency with which it had granted applications to dispense with the Standing Orders; being, for the five Sessions pre-

Its origin.

Part I.
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Committee
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ceding the first appointment of this Committee, in an average of no less than thirty-two cases in each Session, for the first four Sessions, and in sixty-five cases in the fifth. The average number of Private Bills in each Session, for the whole period, was only one hundred and seventy-three.^(a)

Effect of its
Report.

If the Standing Orders' Committee report in favour of the Promoters of the Bill, they are allowed to proceed; either at once, or after complying with the necessary conditions, according to the Report of the Committee. If, on the contrary, the Committee report that the Standing Orders ought not to be dispensed with, their decision is generally fatal to the Bill, although they never assign any reasons for their determination. Their Report, it is true, is not conclusive, and cannot preclude the House from giving a more favourable consideration to the case; but, although there are a few precedents wherein, under peculiar circumstances, parties have been permitted to proceed, notwithstanding the unfavorable Report of this Committee, attempts are rarely made to interfere with its decision.^(b) But in order to leave the question open, the House agree only to those Reports from the Standing Orders' Committee that are favourable to the progress of Bills, and pass no opinion upon the unfavourable Reports, which are merely ordered to lie upon the table.

Its duty
 towards
 Petitions
 to dispense
 with Ses-
 sional Or-
 ders.

The Committee on Standing Orders has also another duty to perform, with regard to Petitions which are occasionally presented for leave to dispense with any of the *Sessional* Orders of the House, relating to

(a) Second Report on Private Business, 1824, pp. 5, 6.

(b) See May, 405. Sherwood, 15, and cases cited. And The Speaker's Observations, in Sess. Papers, H. of Commons, 1837-8, v. 10, p. 213.

Private Bills. Such petitions, instead of being determined directly by the House, as formerly, are now required to be referred to this Committee, to report whether the Orders in question ought or ought not to be dispensed with.

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These organic changes in the preliminary proceedings of the House of Commons upon Private Bills have, it is said,* been found, by common consent, to work well; canvassing has ceased; questions are decided according to the evidence; and there is considerable uniformity in the construction of the Standing Orders, and in the proceedings of the Sub-Committees. In corroboration of this, I would solicit attention to the following observations of the Right Honorable The Speaker of the House of Commons, (Mr. Abercrombie,) under whose especial oversight and direction the improvements in the earlier stages of the Private Business were chiefly effected. He says, in evidence before a Select Committee: "Those acquainted with the practice of Parliament know that nothing could be more unsatisfactory and inefficient than the mode which prevailed in the enquiry as to the compliance or non-compliance with the Standing Orders, until the Committee on the Petitions for Private Bills was appointed; which measure has been attended, as far as I have had experience of it, with complete success. The consequence is, that all questions relating to Standing Orders, are now very nearly excluded from the House of Commons, and if they do come into the House, there are a sufficient number of Members composing the Committee who are perfectly competent to advise and lead the House in the

Satisfactory result of these changes.

* In an article in the Law Magazine for February, 1843, on the Private Business in the House of Commons; to which I have been indebted for much valuable information.

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decision of such matters; and practically, I can say, that when I was first chosen Speaker, I was constantly appealed to on such questions, and now I am never appealed to; which is, of course, a very great practical improvement resulting from those Committees.”^(a)

Bill introduced.

The ordeals of the Committees on Petitions and on Standing Orders, having been safely passed, the Bill is then permitted to be introduced into the House.* And here arises a question of considerable importance, and of some difficulty, viz: the extent to which the interference of the House itself in proceedings upon Private Bills is desirable, and how far it is expedient and right to leave their determination to the decision of Select Committees. In the case of Public Bills, it is well known that no Committee has any power over the *principle* of any measure that is referred to its examination; the principle of a Public Bill is understood to be recognized and adopted

Relative Jurisdiction of the House and the Committee on a Private Bill, considered.

(a) Sessional Papers, House of Commons, 1837-8, v. 10, p. 205; the whole of the Rt. Honble. Gentleman's evidence, which is very extensive, may be read with interest and advantage.

* By Orders, first adopted in 1841, the Bill is required to be presented, ready printed, together with the Petition. This change was called for on account of the vague and general terms in which Petitions were previously worded, so that the Committee on Petitions were frequently obliged to have recourse to *viva voce* testimony to determine, with precision, what Standing Orders applied to them, or what provisions and powers were sought for; and afterwards, on the introduction of the Bill, it was not uncommon to find provisions therein at variance with the Petition on which it was founded. Under the new Orders, the Petition need not enter into any details of the proposed Bill, but may simply refer to it as “the Bill annexed.” (2nd Report on Private Business, 1841, pp. 3-9.) The chief objection to this plan is, the expense it entails on the applicants in the first instance, before they know whether they will be allowed to proceed with their Bill or not. Nearly as much benefit might be obtained by requiring the Petition to be more carefully drawn up.

by the House when it has passed its second reading ; and the reference to a Committee is solely for the purpose of settling the provisions and clauses of the Bill in the manner best calculated to carry into effect the intentions of the House, in its general approval of the spirit and purport of the proposed enactment. Any attempt, therefore, by a Committee, to question or disturb the principle of a Public Bill is manifestly unparliamentary, and an usurpation of powers not conferred upon them by their order of reference. A Private Bill, however, stands upon a very different footing ; it is not a measure the propriety of which rests upon some broad ground of public good, and that is to be justified by principles of moral or political science, but it is one that mainly depends upon the production of evidence, to prove whether the powers, sought to be obtained by its promoters, ought or ought not to be conferred upon them. The proof of the principle of a Private Bill depends almost exclusively upon the correctness of the assertions in its preamble ; which is the basis whereon the Bill is founded, and which assumes that some amendment of the existing law, or that some new law, is necessary and advisable. It is manifest that the allegations of the preamble can only be sustained by the production of evidence ; and although the power unquestionably exists in the House, to receive evidence for and against a Private Bill on its second reading, the exercise of such power has been abandoned ever since the first establishment of the present judicious regulations respecting Private Business^(a). The statements contained in the preamble, which constitute, in fact, the principle of a Private Bill, are now verified by the Committee before they proceed to examine any of the details.

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(a) Sherwood, pp. 50, 51.

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 On the re-
 lative Ju-
 risdiction
 of the
 House and
 the Com-
 mittee.
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It may be further stated, in corroboration of the fact of the present jurisdiction of a Private Bill Committee, that it was formerly the custom for such Committees to require the opponents of an application to prove their case, before calling upon the promoters to substantiate their preamble. This practice obtained upon the supposition that the principle of the Bill was recognized by the House, in the act of reading it a second time : and that it was therefore the duty of the opponents to make good their objections against the preamble, rather than that of the promoters to support it ; as, unless it were disturbed by the evidence produced by the opponents, it was held to be established. Of late years, however, it has been invariably the practice for the promoters to prove their preamble in the first instance^(a). This modern usage is a conclusive argument that the principle of a Private Bill may be, and is, questioned in the Committee.

The propriety of such a course needs but little to be said on its behalf ; were it otherwise, a large and increasing portion of the valuable time of the House would be occupied in examining and discussing local matters, to the disparagement of important questions affecting the welfare of the public at large, and which are also steadily increasing, and are of pressing urgency. Moreover, it is very evident that the examination of witnesses, and the other minute enquiries connected with an application for a Private Bill, can be conducted much more advantageously before a select body of men specially deputed for that purpose, than before a body so extensive and fluctuating as the House. And with regard to the higher duty, of determining

(a) Shernood, p. 52.

upon the merits or demerits of the particular application, it seems now to be generally admitted that a fair and impartial decision may be more reasonably expected at the hands of a few than from the many. With the many, individual responsibility is apt to be lost sight of; with the few, it is incalculably increased. The attendance of a few persons, while important investigations are pending, may be easily secured; but when the judgment rests with the many, instances would be frequent of votes given, that would suffice to turn the scale either way, by persons who had heard little or nothing of the evidence, on which alone their verdict should depend. In the parallel case of Committees to try the merits of Controverted Elections, it is allowed by all, that a vast improvement was effected by the Grenville Act, which first conferred on a Select Committee the decision of these important questions, that were previously determined by the whole House in a most unjust and discreditable manner. The recent Statute introduced by Sir Robert Peel, to amend the law on this subject, still further reduces the number of Members on Election Committees, with the avowed object of securing thereby a more useful and impartial tribunal.

In this point of view, however, it is not contended that the House should deprive itself of all right to interfere in the determination of questions connected with Private Bills; on the contrary, there is a numerous class of questions upon which the House is the most fitting judge. Generally speaking, when the House has referred a matter to a Select Committee, for the purpose of a more deliberate investigation than it is itself able to devote to it, it would be most unwise and inexpedient that the House, with less perfect means of forming an opinion than was in possession of the Committee, should lightly overrule

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On the relative Jurisdiction of the House and the Committee.

Brighton Railway case.

its conclusions. Such an exercise of power should take place rarely, and only upon unavoidable or extraordinary occasions. As an example of the kind of interference that is properly within the province of the House, and that may be used legitimately and with advantage, the following case, which occurred in 1837, is deserving of particular mention^(a). Bills for making four distinct and competing lines of Railway to Brighton had been referred to one and the same Committee of the House of Commons; when an unprecedented contest arose among the promoters of the rival lines, and it was at length apprehended that the preamble of each Bill would be negatived, in succession, by a combination of three out of the four parties against each of the lines in which the other three were not interested, and on which the Committee would have to decide separately. This result was prevented by an instruction to the Committee "to make a special Report of the engineering particulars of each of the lines, to enable the House to determine which to send back for the purpose of having the land-owners heard and the clauses settled^(b)." A Report was made accordingly, but the House, being unable to decide upon the merits of the competing lines, agreed to address the Crown to refer the several statements of engineering particulars to a military engineer^(c). An officer was accordingly appointed for this purpose, on whose Report the House instructed the Committee upon which line they should proceed^(d). Here the interposition of the House was clearly necessary, and was attended with the most successful results.

(a) See May, 428.

(b) Commons' Journals v. 92, p. 356.

(c) Ibid, p. 417.

(d) Ibid, p. 519.

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On the relative Jurisdiction of the House and the Committee.

Peculiar duty of the House.

Again: although, as we have seen, the Committee must necessarily decide upon *the principle* of every application referred to them, in their finding upon the allegations of the preamble, there is nevertheless a principle of great importance, on which it is desirable that the opinion of the House should be given, before the arduous labors of the Committee should commence. The nature of it may be thus explained. When an application is made to Parliament by parties to be incorporated as a Banking, Railway or Mining Company, or for the creation of any Joint Stock Company whatever, a question arises whether it is conducive with sound policy, and a due consideration of the public interests, that an additional Bank, a particular Railway, or a certain other kind of incorporation, should be granted, in the locality affected, or in the country at large. This can only be determined by the House, and it is a question wherein every Member, whatever district he may represent, or whatever may be his general opinions, is equally concerned. It may reasonably be doubted whether there is any description of Private Bill that does not involve one or more questions of this sort, the decision whereof rests solely and properly in the House itself, and should be given, either tacitly or upon debate, before the Bill is sent into Committee. The House, therefore, in proceeding to the second reading of a Private Bill, adopts its principle so far as to declare that it is expedient that the powers sought for should be conferred upon the petitioners, and the measure become law, provided the allegations recited in the preamble are true. Now as the preamble amounts in substance to a declaration that it is expedient that the proposed measure should be enacted, and as it is nowhere ascertained what are the facts determining that expediency, the Committee has no other guide

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than its own discretion, and have, therefore, virtually, as ample a control over the fate of the application as the House at the second reading of the Bill.

An attempt has been made, in the foregoing observations, to point out the relative functions of the House and the Committee, in proceedings upon Private Bills, and to shew that—while the chief duty, in respect of each individual application, apart from its general bearing, must rest with the Committee,—the oversight of the House, to control and arbitrate, whenever such an interference is called for, is also essentially necessary. In aid of this, and to supply the House with the needful information towards a correct discharge of this important duty, a sufficient number of printed copies of the Bill are required, by the Standing Orders, to be deposited with the Door-keeper, before the first reading takes place, for the use of Members, to whom they are given upon application^(a).

Printed
Copies of
the Bill.

Private Bills, in England, are invariably printed at the expense of the promoters, and the number given to the Door-keeper, in the first instance, is only fifteen*; though, should there be a greater demand, additional copies are furnished, to any extent^(b). These measures, however, seldom excite much interest in Parliament, except among Members representing the localities from whence they originate; so that fifteen copies ordinarily suffice to supply the House. This indifference, on the part of Members of the House

Indifference of
Members
generally
to Private
Business.

(a) S. O. H. of C., No. 109.

* The numbers printed by the promoters of each Bill is only fifty copies, but the types are always kept standing while the Bill is in progress to meet any additional demand that may be made. Of some Bills, as for particular Railways, as many as two hundred copies have been called for, but these instances are exceptions to the general rule.

(b) Report on Private Business, 1838, Minutes p. 2.

of Commons, to the Private Business of the country, has been carried indeed to an extent that cannot be justified. The excuse doubtless is, that the inquiry into, and adjudication upon, this portion of legislative duty is now mainly conferred upon selected and responsible Committees, who alone are competent to execute it satisfactorily; and that the length and complexity of the Bills themselves, and the obscurity of the legal phraseology in which they are couched, renders it difficult for an unprofessional man to understand them. All this may be readily admitted, yet there still remains a duty with regard to Private Bills, of which the House has not, and cannot divest itself, viz: the right, we have just been considering, of interfering in all unforeseen or difficult cases that may arise before the Committees, and of restraining any attempt on the part of those tribunals to exceed their proper functions, or make a corrupt or arbitrary use of them. On such emergencies, the dormant powers of the House come into play; and how can they be efficiently exercised unless Members possess a previous knowledge of the Bills upon which they are suddenly called on to decide? And is not a formidable check removed from Committees when they perceive habitual negligence evinced by their fellow Members in the House in the conduct of local legislation; and are aware that nothing but some flagrant case of injustice being brought to light would be likely to arouse them from their usual apathetic indifference?

Its injurious tendencies.

The injurious tendency of such conduct to the best interests of the community, and the credit of Parliament, did not escape the attention of the clear-sighted practical men to whom the House of Commons owes its present admirable Orders for the regulation of

Part I.

Breviates
of Private
Bills.

Private Business (a). The remedy they devised was, the introduction of Breviates of Private Bills, which are skilfully prepared by a professional gentleman, in the employ of the House, and embrace a classified synopsis of the provisions of the Bill, together with a particular reference to everything peculiar therein, and every unusual deviation from the existing law. These Breviates must be prepared before the second reading, and 660 copies, also printed at the expense of the promoters, deposited in the Vote-Office for distribution amongst Members (b).

This plan has proved very successful, and has fully answered the expectations of its framers. In mentioning it here, however, it is not proposed to advocate the establishment of such a system at this time in the Canadian Assembly. The number of Private Bills which annually claim the attention of our Members is still comparatively small. The Breviates, moreover, arose in England out of the necessity of the case, and were designed to remedy an abuse which, it is hoped, in this country, has no existence.

Constitution
of Commit-
tees on
Private
Bills.

We have now to consider a subject of peculiar difficulty, and upon which the House of Commons itself does not seem to have arrived at a final and satisfactory settlement. It is with reference to the constitution of Committees on Private Bills.

In the year 1826, when, as has been already stated, the composition of the Committee on the Bill underwent a material alteration,—by the adoption of improved “Lists,” selected every Session by the Speaker, of Members to whom Private Bills should be referred,—there was one point wherein the new Committees especially failed, and which the gradual

(a) See Report on Public and Private Business, 1837, pp. 7, 8.

(b) Report on Private Business, 1838, Minutes p. 2.

improvements since effected in the construction of these Committees has still left undetermined. It is this; to what extent Members who have local knowledge, or whose constituents are locally interested, should be allowed to serve in Committees on Private Bills; and how far the evils of local bias, in the instance of Members composing the same, outweigh the benefits derived from their assistance. This subject admits of much being said on both sides of the question.

Part I.
Committee
on Bill.
Admission
of local
interests
therein,
con-
sidered.

The House of Lords, so far back as 1837, rescinded their previous practice of referring the Bill to a Committee open to all Peers who had taken their seats for the Session, and adopted a plan, by which, through the instrumentality of a Sessional Committee of Selection, a Committee of five Peers is chosen, to sit upon each Private Bill. Particular care is taken, in choosing the Committee, to select Peers without any interest in the measure referred to them; and, as far as possible, without local knowledge. The attendance of Members so appointed is very strictly enforced.

The Committee of the House of Commons on Public and Private Business, in the same year, adverted, in their Report, to this change in the constitution of the Lords' Committees, but declined to recommend its adoption by the Commons, as being unsuited for the different position of the Members of that body towards the country at large.

“The Members of the other House,” they said (a)
“are bound to act under a sense of responsibility to the public generally, but without any special duties towards any particular and special portion of it. The Members of the House of Commons, on the contra-

(a) Report, 1837, p. 7.

Part I. ry, though bound by the same general rule of duty,
 Committee are also immediately responsible to particular bodies
 on the Bill. of electors, and each particular constituency looks
 As to the upon its Representative as specially charged with the
 admission of local duty of watching over their interests, in matters of
 interests Private Business; and have a right to his services
 therein. upon any question of the kind. Nor can it be de-
 nied," they add, "that there is advantage derived
 from the conduct of business of this nature being
 entrusted to those who, from local acquaintance
 with the particular places affected by a Private Bill,
 or personal communication with those who are
 interested, can bring a more minute knowledge
 of the facts to the consideration of the subject."

These arguments are not without weight, and it is indisputable that there is much advantage to be derived from the previous acquaintance of some of the Committee with the merits of the case before them. But it is very doubtful whether these advantages could not be secured in a way less open to objection, as, by an attentive examination of the evidence submitted to the Committee on behalf of the promoters and opponents of the measure. It is also doubtful how far the exercise, by Members, of their local influence and information, on the Committee, can be reconciled with a due regard for their character and obligations, as individuals to whom is delegated the especial duty of adjudicating upon the propriety of granting the application, and conferring on the petitioners the privilege they desire to obtain.

To borrow another illustration from the practice of Election Committees; the position of Members whose constituents are interested in the fate of any Private Bill, when forming part of the Committee upon it, resembles very much the case of the individuals formerly selected, under the authority of the old "Gren-

ville Act," to serve as "Nominees" to each party in the Committee of which they were Members. The position of these gentlemen was very anomalous; they were expected to afford every assistance in their power to the parties by whom they were chosen, and to take charge of their interests before the Committee; and at the same time were sworn to decide on every question at issue, impartially and without favor, to the best of their judgment. These two duties naturally proved very incompatible, and were found, in practice, to occasion so much embarrassment to those most anxious to act conscientiously, that, in 1828, when a new Statute was passed, embodying the principles of the Grenville Act, but introducing such amendments in its details as the experience of fifty years had shewn to be desirable, the system of "Nominees" was abandoned. A similar difficulty, it would appear, has manifested itself in respect to Members locally interested on Committees on Private Bills.

Part I.
 Committee
 on the Bill.
 As to the
 admission
 of local
 interests
 therein.

Again; in common transactions between man and man, in ordinary life, when a difference arises, whether of fact or opinion, it is usual to select a third party, to arbitrate. Whom do we find chosen for this office? Certainly not one who is in any way likely to have an inclination or partiality towards either of the disputants. In the task of adjusting questions between the promoters of a Bill and parties appearing to oppose it, the functions of the Committee are very similar to those of an arbitrator; and therefore, to decide such questions, a Committee entirely free from bias of any kind would seem the fittest tribunal.

The question of the exclusion of all local bias in such Committees has long been entertained by the House of Commons, and even so far back as 1825, a Committee on Improvements in Private Business

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Committee
on the Bill.

As to the
admission
of local
interests
therein.

Constitu-
tional ob-
jection
considered.

spoke of "an exclusion of all bias from interest" as, "abstractedly considered," "most desirable;" though they admitted such a plan to be, at that time, impracticable^(a). Subsequent Committees have also spoken favourably of it, though they have still hesitated to give it a decided recommendation, until every other project shall have proved insufficient to meet the exigencies of the case.

One objection that has been urged against such an exclusion is not unworthy of notice. It is, that the House has no constitutional right to exclude from Committees an entire class of men, whom their constituents have probably selected chiefly from their knowledge of the interests of their respective neighborhood, simply for fear of their misusing such knowledge^(b). To this it may be replied, that all such interests find their natural vent within the House itself, and are there legitimately expressed, and as the verdict of the Committee, however minute and extensive its investigations, must necessarily be subordinate to, and liable to reversal by, the authority of the House, there can surely be no impropriety or illegality in any restrictions the House may think fit to impose with a view to insure an opinion from a Committee that it may safely believe to be impartial. Besides, the fact of the existence of such an influence, within the walls of the House, is a guarantee that it will be interposed on behalf of the party aggrieved, whenever sufficient cause exists to call it forth.

Different
practice on
unopposed
Bills.

And here it should be observed, that a distinction has been drawn between opposed and unopposed Bills. With regard to Bills of the latter class, it has been urged, that the parties promoting them before the

(a) Report, 1825, p. 2.

(b) Mirror of Parliament, 1839, p. 595.

Committee have it in their power to bring forward what evidence they please in their support, and also to suppress whatever they think would tell against their case, and therefore that if such Bills were laid before Members wholly unacquainted with their local merits, they would scarcely be as capable of adjudicating thereupon, as Members with a local knowledge of the subject^(a). This is very true, yet the remedy the House of Commons has applied to meet this acknowledged difficulty, has been so framed as to exclude, even here, the predominance of local interest. In the House of Lords, it appears, unopposed Bills, though nominally referred to "all the Lords present this day," are practically subjected to the chief, if not the sole, investigation and correction, of the Chairman of their Lordships' Committees, a Member who is, also, a salaried officer of the House, of extensive experience, and profoundly versed in all matters connected with local legislation. This nobleman, with the assistance of a counsel attached to his office, examines the provisions of every Private Bill, and is responsible for its containing nothing at variance with the law of the land, or injurious to the rights of individuals^(b). This plan has worked well, and given universal satisfaction. Its success induced the House of Commons, in 1840, to frame a similar system, under which all unopposed Private Bills are subjected to the uniform scrutinizing examination of an individual Member, who presides as Chairman on every such Bill, and together with two or more Members ordered to bring it in, forms the Committee; himself and one other being a quorum. This duty,

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Committee
on the Bill.
Different
practice on
unopposed
Bills.

In the
Lords.

In the
Commons.

(a) Report on Private Business, 1838, Minutes p. 8.

(b) May, 439. Report on Private Business, 1838, Minutes p. 38-40.

Part I. as in the Lords, is confided to a salaried officer, viz :
 Committee on the Bill. the Chairman of the Committee of Ways and Means,
 who is elected from among the Members at the first
 meeting of the Committee of Supply, at the beginning
 of every new Parliament, and presides over the sit-
 As to the admission of local interests therein. tings of that Committee, the Committee of Ways and
 Means, and generally over all other Committees of
 the whole^(a). His salary is £1,200 per annum ; but
 for the additional duty with respect to Private Bills,
 an extra sum of £500 per annum is allowed^(b).

It has been already remarked, that the House of
 Commons have not sanctioned, as yet, any proposal
 for the entire exclusion of local influence from Com-
 mittees on Private Bills. The chief arguments, *pro*
 and *con*, have been stated at some length ; not be-
 cause of the immediate practical importance of the
 question, to the Legislative Assembly, but that with
 the increase of Private Business, and the growth of
 conflicting interests in our community, it is probable
 that, at no distant period, it may present itself for
 decision ; and because any account, professing to de-
 tail the rise and progress of the British practice,
 would be defective, which omitted to describe the
 controversy on this important point. I now proceed
 to a description of the present proceedings in the
 House of Commons on opposed Private Bills ; which,
 as compared with the old system, will show to what
 extent a limitation of local influence in Committees
 has been effected.

Present
 practice in
 the com-
 position of
 the Com-
 mittee.

By Standing Orders, adopted in 1839, it was di-
 rected, that the "Speaker's List" of Members to
 compose Private Committees, instead of consisting,
 as previously, of Representatives of adjacent Counties

(a) May, 328.

(b) Second Report on Private Business, 1840, p. 4.

and towns, grouped together, and also of other Members, chosen indiscriminately from distant parts—the two together forming the Committee to which a particular Bill was referred—should be essentially altered in its construction, and should consist only of Members “locally interested” by contiguity of place. At the same time it was ordered that there should be appointed every Session a Committee of Selection, to whom, in the first place, every Private Bill is referred, and who refer it to the Speaker’s List for the County, or division of County, to which it specially relates, and to such a number of other Members, chosen by the Committee of Selection, and not locally interested in the Bill, as the circumstances of the case may, in their judgment, require.*

Part I.
Committee
on the Bill.

Every individual composing the Committee is specially required to sign a Form of Declaration, specifying, if on the Speaker’s List, that he “will never vote on any question which may arise, without having duly heard, and attended to, the evidence relating thereto,”—and if a selected Member, he adds, besides this declaration, that “his constituents have no local interest, and he has no personal interest in the Bill.”†

Declara-
tion of
Commit-
tee-men.

The introduction of this system into the practice of the House of Commons, has had the effect of abating, materially, practices with reference to the com-

* When a Bill, from its peculiar character, is not applicable to any list, it is referred, by the Committee of Selection, to certain Members specially appointed. (May, 410. Townsend Peerage Bill, 1843.)

† May, 411. For a full account of the first organization and subsequent proceedings of the Committee of Selection, together with the several Forms of Declaration, to be signed by Members before serving on any Private Bill Committee, see Second Report on Private Business, 1839, Minutes, p. 1—7.

Part I. mittal of Private Bills which had previously excited
Committee great complaint and reprobation^(a).
on the Bill.

The clause in the Form of Declaration respecting the Attendance of Members on the Committee, leads to a few remarks on that head.

Atten-
dance of
Members.

In the year 1824, measures were first adopted to compel the attendance of Members on Committees, under penalty of a loss of their vote^(b). The system in force prior to that time caused, as we have seen, an almost exclusive attendance of such Members as were, either directly or indirectly, personally interested in the issue of the proceedings. This was satisfactory enough to the friends of the application, but produced a very different feeling in its opponents, who, in order to give their case a chance of fair investigation, used commonly to procure some Member to "open the Committee," by moving, in the House, "that all who come shall have voices;" a step justifiable, and perhaps indispensable, on their part, but which, far from diminishing the evil, frequently augmented it ten-fold, by inducing all the interested individuals in the House, opponents as well as friends, to take part in the business of the Committee; a proceeding which necessarily terminated in the prevalence of the strongest party^(c). By an Order of the House, in 1827^(d), this practice of "opening Committees," was abolished.

Difficulty
of secur-
ing.

The difficulty, however, of securing the attendance of Members, duly appointed to serve on a Committee, still remained. At first, it was required that the Report should be accompanied with Minutes of Proceedings, shewing the names of Members who

(a) Second Report on Private Business, 1840, p. 3.

(b) Report on Private Business, 1824, p. 3.

(c) Report on Private Business, 1825, p. 2.

(d) C. Journals, 20th February, 1827.

attended each day; but this proved quite insufficient, as, in many instances, Members merely came in to have their names taken down, and then withdrew, leaving the business to be transacted by two or three persons who remained, and who could of course proceed as they thought proper^(a). This at length led to the adoption of the present Rule, which provides that no Member shall be entitled to attend or vote unless he shall have previously signed a Declaration of his willingness to serve on the Committee, and that he will never vote on any question that may arise without having duly heard and attended to the evidence relating thereto^(b). In connection with this, the Chairman of every Committee is specially directed, by the Standing Orders, to observe that there is always present a quorum of selected Members; and to stop the proceedings when the proper number are not in attendance. If, on the expiration of an hour from the time fixed for the meeting of the Committee, or from the time when he suspended their proceedings, a quorum be not present, he is obliged to adjourn the Committee, and report the circumstances to the House^(c). Lists of every Division that takes place in the Committee are also reported to the House in the Minutes of Proceedings.

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Committee
on the Bill.
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dance of
Members.
Present
practice.

With regard to the forms of procedure in the Committee on the Bill, nothing need here be said, as they are amply detailed in the Books of Practice. But it may be advisable to mention, that, in the case of an opposed Bill, the first proceeding of the Committee, after appointing the Chairman, is to call in all the parties, and hear counsel and evidence upon

Procee-
dings in the
Commit-
tee.

(a) Report on Private Business, 1838, Minutes, p. 29.

(b) S. O. H. of C., 1845, No. 60.

(c) Ibid, No. 64.

Part I. the general expediency of the Bill, and the truth of
 the allegations contained in its preamble. This being
 done, the room is cleared, and a question is put,
 "that the preamble has been proved," which is
 affirmed, or denied, by the Committee. If affirmed,
 the parties are called in, and the Bill is proceeded
 with ; but if negatived, the Committee report at once
 to the House, "that the preamble has not been proved
 to their satisfaction." 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 ; and in 1836, the Committee on a Railway
 Bill were ordered to re-assemble, "for the purpose of
 reporting specially the preamble, and the evidence
 and reasons, in detail, on which they came to the
 resolution, that the preamble had not been proved^(a).
 May, in his recent work^(b), suggests, in reference to
 this, that it should be obligatory on every Committee to
 state the grounds of their decision to the House, when
 they report that the preamble has not been proved.
 This is a very necessary regulation ; it would operate
 as a powerful check upon Committees arriving at any
 conclusions not warranted by the evidence they had
 adduced ; and would enable the House, in the event
 of the decision of a Committee being unsustainable,
 to afford the requisite relief to the parties, by ordering
 the investigation to proceed. A similar direction,
 indeed, has been recently given to Committees, with
 regard to alterations in the preamble, which they are
 permitted to make on condition of introducing nothing,
 in any degree, inconsistent with the Standing Orders

(a) C. J. v. 91, p. 396.

(b) P. 426.

applicable to the Bill, and of specially noticing, in their Report to the House, every such alteration, and the grounds whereon it was made^(a).

Part I.
Committee
on the Bill.

Having disposed of every material question connected with the constitution and practice of the Committee on the Bill, it now remains to mention the Report. And here allusion must be made to a most unparliamentary and objectionable practice that has been too prevalent, of late years, both in the Imperial and Provincial legislatures. It is that of Committees taking upon themselves to dissolve, or adjourn their proceedings *sine die*, or to some distant period, when it is presumed that Parliament will not be sitting.

No Committee, whether select, or of the whole, has a right to dissolve itself. Its power is delegated for a special purpose, and is limited to the subordinate duty of settling details. When such details, as in the case of a Private Bill, involve essentially the merits of the application, still Committees have no authority to pronounce final judgment, but are bound to render to the House an account of their proceedings, and of the facts they have elicited. On this the House can determine, as it thinks fit, but no power short of the House should presume to conclude finally with regard to any Parliamentary question, unless specially authorized by competent authority to do so. In order to prevent the recurrence of such an irregularity, the recent Commons' Orders strictly provide, "that every Committee to whom any Private Bill shall have been referred, shall report the Bill to the House, whether such Committee shall or shall not have agreed to the preamble, or gone through the several clauses, or any

Committees neglecting to Report, highly irregular.

(a) Report on revision of Standing Orders, 1843, p. iii., S. O. 1845, No. 82.

Part I. of them”(a). This is to secure to the House the ultimate disposal of every Bill.

Proceedings on Report of Bill to the House.

Upon the Report of a Bill from Committee, it is competent for the House to allow new clauses to be added, or amendments made, on the bringing up, or consideration, of the Report, or on the third reading. But such alterations, in the case of Private Bills, are now very rarely allowed by the House(b), and have been, recently, much restricted by the Standing Orders. The Committee is the proper tribunal for discussing and settling every proposed provision of the Bill. The House are, therefore, anxious to discourage all attempts to tamper with its conclusions, and will admit no alterations in the Bill, as agreed upon by the Committee, without due enquiry(c). When propositions to amend or add to the Bill are offered to the House, after the Report, they are now always referred to the Committee on Standing Orders, and no further proceeding on the Bill takes place until their Report has been received. This Committee must report “whether such clause, or amendment, be of such a nature as not to be adopted by the House without the re-commitment of the Bill; or, of such a nature as to justify the House in entertaining it, without recurring to that proceeding; or, of such a nature as not, in either case, to be adopted by the House”(d).

Re-committal of Bill.

When a re-committal of a Bill takes place, it is to the former Committee.

After the third reading, it is too late to re-commit a Bill, and the only Report made by the Standing

(a) S. O. No. 82.

(b) Sherwood, 67.

(c) Report on Private Business, 1838, Minutes, p. 14. May, 431, 432.

(d) S. O. No. 48.

Orders' Committee is, whether the proposed clause or amendment ought to be adopted by the House at that stage^(a). Part I.

Another benefit that has resulted to the House of Commons from its improved procedure on Private Bills may be here stated. It consists in the facility which it affords for the daily transaction of business by the House itself. The Private Business is not now, as heretofore, mixed up with public matters on the Orders of the Day, but is proceeded upon and despatched, separately, at an early hour, before the Public Business is taken up. By this means, all unnecessary delay is avoided, and as it rarely happens that a Private Bill gives rise to discussion, the House is enabled to dispose of a large amount of business before entering upon any important debate; which otherwise would have to be postponed for a future and indefinite period. Thus, to whatever extent general legislation may be retarded, whilst some interesting and absorbing question is pending in the House, the Private Business receives no interruption, but is promptly and regularly proceeded with. Practice in
the House
itself.

We have thus completed our imperfect outline of the progress of a Private Bill through the House of Commons, under the Orders now in force in that Branch of the Imperial Legislature; and of the gradual means through which a progressive improvement, in the management of its Private Business, has been attained by that Body. Many of the minute and subordinate provisions of the existing Orders and Practice, have been purposely omitted, as being of no present utility in this country, and likely to embarrass those whose immediate object is to frame a system, sufficiently complete to be advantageous to all parties

(a) May, 432.

Part I. interested in the matter, and sufficiently simple to be easily understood, and enforced without difficulty.

Before entering upon the second part of our enquiry, it is needful to add a few remarks on two important parts of the English system, which have not, as yet, been fully explained, viz: the Private Bill Office; and the payment of Fees.

Private
Bill Office.

One of the earliest regulations adopted by the House of Commons, in amendment of its Practice on Private Bills, was the setting apart of an Office expressly for the transaction of all business appertaining to that subject; wherein is kept a Register, open to public inspection, in which is recorded every step taken in the case of each Private Bill, whether in the House, or in any Committee to which the Bill or Petition may be referred; the precise time when the Committee is appointed to sit, or to which it may be adjourned; and the name of the Committee Clerk. In this Office notices in relation to Private Business are required to be given, by all parties concerned, or their agents, at certain specified times; and here the documents connected with the application must be lodged, and the names of the Agents who conduct or oppose it must be entered. The Office was first established in 1811^(a), and has materially contributed to simplify the proceedings of the House, and to ensure publicity and regularity in the conduct of Private Bills.

Payment
of Fees on
Private
Bills.

The question of Fees has been already incidentally adverted to^(b), though something yet remains to be said upon the subject.

The principle of exacting, from parties interested in supporting or opposing Private Bills in Parliament, a payment, in the shape of a Fee, which shall tend to

(a) Report on Private Bills, 1810, p. 1.

(b) See *ante*, pp. 11-13.

relieve the public from the expense incurred for the benefit of private individuals, is equitable and just.

Hatsell, alluding to a proposal made in his day, for the entire abolition of Fees on such applications, says^(a); "the immediate consequence of such a proceeding would be, that the overflowing of private applications, which at present very much interrupt the public business, would overwhelm everything else, and it would be impossible for the Speaker, or the officers under him, any longer to attend to any part of their public duty." Since Hatsell wrote, the Private Business of Parliament has gone on steadily increasing, notwithstanding the continuance of Fees, until, at the present time, the vast extent of legislation for purposes of local administration, and the organization of joint stock companies, has made its annual increase equal to about four times that of the public general enactments!^(b) There can be no doubt, however, that the tendency of such imposts is to check, in some measure, the spirit of speculation; and that many have been deterred from soliciting the aid of Parliament in behalf of their projects, from a fear of the expense they would incur in supporting them.

In regulating the amount of Fees to be paid, it has been the endeavor of the House to secure, as far as possible, an equitable apportionment of Fees with reference to the magnitude and importance of the proposed Bill. This object is very difficult of attainment; and, in practice, the amount of Fees altogether depends upon the degree of opposition encountered, during the proceedings, from interested parties. Thus, the least expensive, in this respect, are Natu-

(a) 2 Hats. 288.

(b) Edinburgh Review, July, 1846, p. 126.

Part I. realization Bills, as they are very rarely opposed, and seldom cost, in passing through both Houses, more than £90. Other classes range, ordinarily, from that amount to £800, or £1,000; and there are some instances, for example, the Great Western Railway Bill, which have greatly exceeded the last named sum^(a).

Exemptions from the payment of Fees.

The only class of Private Bills, in the Imperial Parliament, on which the parties, on whose immediate behalf they are obtained, are exempted from this payment, are Bills to *continue* or *amend* existing Turnpike Road Acts, the Fees on which, ever since the year 1829, have been ordered to be paid out of the Public Treasury^(b). The reason for this exemption is that, in England, all Turnpike Trusts are required, on grounds of public policy, to be renewed every twenty or thirty years; this renewal necessarily entails considerable expense, which the funds, at the disposal of the Trustees, often prove inadequate to defray, so that, to relieve them from this pecuniary obligation, applications merely to renew a Turnpike Trust, or to alter its powers, are now virtually discharged from the payment of Fees^(c).

By whom the Fees are paid.

The parties responsible for the due payment of Fees, are the Parliamentary Agents; and if they be not paid before the second reading of the Bill, the Officers of the House are empowered to arrest its further progress, until they are made good^(d). In the House of Commons, the Fees, though nominally paid to various official personages, are collected and car-

(a) Report on Private Bill Fees, 1834, p. 3, and Minutes of Evidence, p. 3.

(b) See Com. Journ. v. 84, p. 90.

(c) Mirror of Parl. 1829, p. p. 301, 330.

(d) S. O. H. of C. No. 115.

ried to a Fee Fund, from whence the salaries and retired allowances of the Establishment are defrayed. The amount thus collected is found amply sufficient for that purpose; the expenses of the House of Commons, for salaries and allowances, not exceeding £20,000 per annum, while the produce of the Fee Fund, in one year, has amounted to nearly £25,000^(a).

Part I.
Fee Fund.

II. In entering upon the second part of our Enquiry,—with a view to ascertain what provisions and regulations it would be expedient to adopt, to introduce, into the practice of the Legislative Assembly, the foundation of a sound and efficient method of transacting its Private Business,—it will be advisable to pursue the plan observed in the previous section, and examine each question connected with the proposed system, in its natural order; commencing with such matters as are preliminary to the introduction of the Petition.

Part II.
Proposed regulations for Private Business in the Leg. Assembly.

The Rules already in force in the Assembly, on Private Bills, are those numbered in the Book of Rules as from 60 to 72. These Rules seem to have been chiefly copied from those enforced by the House of Commons at a very early date, long anterior to the commencement, by that Body, of its present improved practice. It is proposed that these should be rescinded; and others adopted, similar to those appended to this Report; which are principally selected from the Orders of the House of Commons for 1845; with a few necessary alterations.

Rules now in force.

As respects the giving of public Notice of the intention to apply to Parliament for a Private Bill, it has been already remarked that such Notices are not required in England, in every instance, but only in

Notices of intended applications for Private Bills.

(a) Sess. Pap. H. of C. 1833, v. 12. (Report on House of Commons' offices, p. 256.) Ibid, 1835, v. 18.

Part II.
Notices.

certain cases, specially enumerated in the Standing Orders. The Rule here is general, and exacts Public Notice of the intention to apply for leave to bring in a Private Bill "for granting to any individual or individuals, any exclusive rights or privileges whatsoever." The effect of this is, to compel previous Notice for a Naturalization Bill, and in many other cases that could be mentioned, wherein the English Orders deem such a thing quite unnecessary. Compulsory Notices are not merely a source of expense to the parties, but a frequent occasion of delay, and of probable failure, from technical insufficiency; and should therefore never be required, except when they are clearly necessary to protect the rights of others. They also fetter the inherent right of application to Parliament for aid and redress; which is another reason against their indiscriminate exaction.

To frame an Order that shall distinctly and specifically enumerate every species of application wherein a previous Public Notice should be given, is a difficult task, and requires a thorough knowledge of the peculiar sort of applications likely to be made, from time to time, by the inhabitants of the country. The Commons' Order, on this head, was not framed at once, but though originally adopted somewhat in its present shape, time and experience have been bestowed in maturing it. There can be no doubt of the superior advantages of a precise and definite Rule; but in the absence of the information to be derived from the successful operation of an efficient system, it would be almost impossible to prepare one, and it would probably be better to adopt, temporarily, some general provisions on this subject, with a view to substitute, hereafter, a more specific and satisfactory regulation in its place. The Rule might be worded

so as to require Notices to be given whenever the application, if granted, would "affect in any way the rights and property of others." This, though somewhat vague, might serve for the present, better than that now in force.

Part II.
Proposed rule, as to giving Notices.

The mode prescribed by the existing Rule, to give publicity to Notices, is by insertion in one District newspaper, published in the English, and one in the French language, if such be published; and also by a Notice affixed on the Church doors of the Parishes or Townships affected; or in the most public place, where there is no Church; for at least two months before the Petition is presented.

Present mode of publishing Notices.

In place of this, it is proposed, to require a different mode of publication for each section of the Province. In Upper Canada, by means of a local newspaper, and a Notice affixed to the door of the District Court House; and in Lower Canada, by means of a local newspaper, in each language, if there be one in both; and a Notice affixed to the door of the Parish Church. Also, in both cases, by insertions in the Canada Official Gazette. This alteration is needed, because of the order for a "Church door" notice having become inoperative in the Upper Province, from the difference of opinion prevailing as to which "Church," if any, is entitled to the preference; while in Lower Canada, the Roman Catholic Parish Churches are almost invariably used.

Proposed method.

The Assembly Rules (Nos. 67, 68 and 69) contain provisions limiting the time for receiving Petitions for Private Bills, Private Bills, and Reports of Committees on Private Bills, by the House. So far as regards Petitions, this is in accordance with the British practice, and it is a sound and necessary regulation, serving as well to prevent an undue accumulation of

Limitation of times for receiving Private Petitions, Bills and Reports.

Part II. Private Business at an advanced period of the Session, and for the protection of the rights of those parties who might be injured or affected by the sudden introduction of measures at a time when they were unprepared to oppose them. So long as the period for receiving private Petitions is circumscribed, intending opponents can be on their guard, and may safely trust to the honor of the House that their interests will not be overlooked by an unnecessary extension of that time; but if once this barrier be removed, nothing but the exercise, by them, of a constant vigilance during the whole of the Session will suffice. The other restrictions have no counterpart in British usage, and seem quite uncalled for. By limiting the time for receiving Petitions, you have provided against an undue pressure of Private Business towards the termination of a Session, but the applications received are fairly in charge of the House, and are entitled to a due consideration. If there be a reasonable despatch on the part of the Members deputed to examine and adjudicate upon them, and the parties continue to comply with the Standing Orders, and are desirous of proceeding with their Bills, no delay can possibly arise that could be attributed to the fault of the parties, or the consequences whereof should be visited upon them. It would be better, therefore, to proceed as in the case of Public Bills, and let each application take its course; if the Bill can be got through the Committee much before the close of the Session, it has a fair chance of becoming law; but if, from the difficulties attending it, or the number of conflicting interests concerned, this is not feasible, the application will, of course, need to be renewed in another Session. As it is, no advantage appears to be obtained by limiting the periods for re-

ceiving the Bill and the Report, and the House is continually called upon, out of common justice, to extend the time; which, as setting an example of frequently dispensing with the solemnity of a Standing Order, has, in itself, a most injurious effect.

Part II.

The 60th Rule of the Legislative Assembly directs, without limitation or restriction, that all Private Bills shall be introduced upon Petition. In practice, this is continually infringed,* the cause of which, most probably, is the uncertainty that has hitherto prevailed as to the precise distinction between a Public and a Private Bill. To the same reason, as well as to the unsystematic manner in which the Private Business has been heretofore conducted, may be attributed the fact, that many Private Bills pass to their second reading without any preliminary examination of the Petitions on which they were founded, by the Committee appointed for that purpose, and are then referred to the Committee on Private Bills, who are consequently at a loss to know whether the Select Committee to whom the Petition was actually referred, had duly investigated into the observance of the Standing Orders, and are precluded themselves from enquiring into the same. Other applications, again, are never referred to the Private Bill Committee, either as Petitions or Bills.

All Private Bills to originate on Petition.

Irregular proceedings on Private Petitions.

* In proof of this, I have examined the title of every Bill introduced into the Assembly since the Union, and subjoin the following as the actual numbers of each class of Bills, judging by the English standard. Of those designated Private, it is notorious that comparatively few were really treated as such, in their progress through the House :

	Public.	Private.		Public.	Private.
In 1841.	107	55	In 1844-5.	129	66
In 1842.	39	13	In 1846.	103	94
In 1843.	73	44			

Part II.
 Proposed
 remedy.

In the attempt to remedy these irregularities, it is proposed to make use, as far as possible, of machinery already existing, in the shape of Committees that are now Sessionally appointed by the House. It is proposed to confine the jurisdiction of the "Standing Committee on Private Bills" to the consideration of such Bills, after their second reading; to create another Sessional Committee, to be called "the Committee on Petitions for Private Bills," to whom shall be referred *every* application for a Private Bill; and to allot to the "Standing Committee on Standing Orders" similar duties, with regard to Private Petitions and Bills, to those exercised by the Committee on Standing Orders in the House of Commons. This will merely involve the necessity for appointing one additional Standing Committee, and will relieve the present Committee on Private Bills from the trouble and delay of giving a two-fold examination to every such application; first, when it is referred to them as a Petition, and again, when it is committed to them as a Bill. The proposed functions of these three Committees will be apparent on examining the Standing Orders appended to this Report; they are, in substance, such as have been already described in treating of the English system.

Selection
 of Mem-
 bers of
 Standing
 Commit-
 tees.

Should this plan meet with the approbation of the House, it will be necessary, to ensure its working satisfactorily, that the lists of Members to serve upon these several Committees should be selected expressly with reference to the nature of the duties required of them. They should all be gentlemen of business habits, who will be able to devote their time and attention to the matters referred to them; and the Committee on Standing Orders, especially, should consist of men of Parliamentary experience, compe-

tent to determine the delicate questions of construction that may be presented to them, with uniformity and legal precision. Part II.
—

It will be seen that no Declaration is proposed to be required of any Member composing these Committees, except of those serving on the Committee on Private Bills, from whom a special Declaration, in the case of every Bill referred to them, should be exacted, that the Members who take it in charge will abstain from voting on any question relating thereto, upon which they have not duly heard and attended to the evidence. Declara-
tion of
Members.

After the Report on a Bill has been made to the House, it is recommended that the English practice of discountenancing alterations therein, without full examination into their nature and effect, should be followed. Without a regulation of this kind, it would be in the power of interested individuals, through the instrumentality of a Member, to introduce serious changes into Bills, and evade, with reference thereto, the restraints imposed by the Standing Orders. Procee-
dings in
the House
after the
Report.

As a further means of facilitating the transaction of Private Business, and of introducing a greater degree of order and method therein, it is suggested that an office, similar to the one established in the House of Commons, and to be called the "Private Bill Office," should be set apart especially for that object. To effect this, no additional expense need be incurred, with the present amount of business to be got through, inasmuch as the duties to be performed by the "Clerk of the Private Bill Office" would not differ materially from those at present discharged by the Clerk who may attend on Committees on Private Bills. Should this plan be adopted, the Clerk to be appointed to the Private Bill Office, should have in- Private
Bill Office.

Part II. instructions to keep the requisite books and papers connected therewith, and attend to all the duties naturally appertaining to such an office. He might also be desired to attend the Committees on Petitions for Private Bills, and on Standing Orders. By this means there would always be an Officer of the House accountable for the correct discharge of the several matters connected with the Private Business, whose information and experience would be of value to all parties interested in the same.

Fees on
Private
Bills.

It now only remains to examine the question of Fees. The House, in its 71st Rule, declares, "that all the expenses and costs attending on Private Bills giving any exclusive privilege or advantage, and the relative proceedings in this House, thereupon, ought not to fall upon the Public; and that it is just and reasonable that part of such expenses and costs should be supported by those who apply for the said Bills."

Present
practice.

The Rule then directs, "that a sum not less than £20, be deposited in the hands of the Clerk of the House, by the Petitioners, before the second reading of any such Bills." The gross amounts received by the House for Fees since 1841, the year when, by the adoption of this Rule, their payment was first enforced, are as follows: In 1841, £140; in 1842, £140; in 1843, £260; in 1844-5, £300; in 1846, £500. From these items must be deducted the sum of £80 in 1841, and £40 in 1846, to allow for Fees refunded by the House, in those years, for special reasons.

Objections
thereto.

By the foregoing Rule, the principle of Fees is recognized; but it may be questioned whether the practice of levying one uniform amount, on every description of private application, does not operate somewhat unfairly? The Fees in the British Parlia-

ment consist of a number of small payments, to various officers and departments, upon each stage of the proceedings, from the commencement to the close. The sum total of expense, therefore, varies according to the extent of the Bill, and the time occupied in its investigation. With us, no difference is made between a Bill to confer corporate powers upon some charitable association, or to incorporate a thriving and wealthy town; or between a Bill to effect an object to which no party dissents, and one strenuously opposed by numerous adverse interests. To frame a scale of Fees graduated according to the actual importance of the Bill would be impossible, as one measure might be of greater or less importance at one time, or in one place, than another. The only feasible plan, therefore, to equalize the burthen to the benefit received, would be to adopt a scale of Fees, varying according to the size of the Bill, and the time occupied by the House, and the Committee, in discussing it. If the end to be effected by the measure be comparatively trifling, the Bill would, ordinarily, be comprised within a short compass; and if no opposition arose against it, on behalf of interested parties, no extraordinary delay would be likely to occur in its investigation. In such a case the Fees would be at their *minimum*; otherwise, if the Bill were voluminous, and the opposition severe.

Part II.

Proposed
remedy.

The collective amount of these Fees need not be greater than the gross sum now imposed; but in this way the inconsistency and incongruity of the present payment would be obviated. As there is no necessity to make them payable, as in England, nominally, to various officers and servants of the House, they should all be paid directly into the Private Bill Office.

Part II. There are certain Bills that should be altogether exempted from the payment of Fees. For instance, cases like that of the Bill of last Session, "to vest in Capt. Vidal, R. N., the Government allowance for a certain road," the Fees on which were ordered by the House to be refunded. The circumstances of this case, and of others similar to it, will be fresh in the recollection of Honorable Members, who will at once perceive the extreme hardship of compelling an individual to pay for a mere act of justice, and the propriety of some definite Rule exempting such applications from this impost. It is therefore suggested that, should any alteration of the present rate take place, a Memorandum, enumerating the exemptions, be appended thereto.

Exemption of certain Bills from Fees.

Printing of Private Bills. It should also, be declared, that the cost of printing Private Bills must, in every instance, be incurred by the Petitioners. A Rule to this effect will be found amongst the following Orders.

Sessional Committees on Private Business, recommended.

In conclusion, I would respectfully suggest, that—as the present improved practice of the House of Commons, with regard to Private Bills, owes its origin chiefly to the labors of Committees appointed, for several years past, at the commencement of every Session, "to consider whether any and what improvements could be adopted in the mode of conducting Private Business,"—similar Committees should be sessionally chosen by the Legislative Assembly, with authority to enquire into the working of any alterations in the Standing Orders that may, hereafter, be introduced, and to recommend such further changes as, in their opinion, may seem advisable.

ALPHEUS TODD.

MONTREAL, September 16th, 1846.

APPENDIX.

STANDING ORDERS,

RECOMMENDED FOR THE ADOPTION OF THE LEGISLATIVE ASSEMBLY, TO REGULATE THE MODE OF PROCEEDING UPON PRIVATE BILLS.

The following Orders have been chiefly selected, according to the views advocated in the preceding Report, from those now in force in the House of Commons. They consist of such only as are necessary to organize and establish the system therein recommended, for the management of Private Business; and do not include any of the minor regulations, defining the description of Notice, or the provisions required to be inserted, in particular classes of Private Bills. Rules to this effect must be framed with especial reference to the present condition of the Province, and the interests that need to be protected by the Legislature whilst sanctioning applications from individuals for exclusive powers; they are therefore left for the consideration of the Committee to whom this code of Orders may be referred.

CLASSIFICATION OF THE STANDING ORDERS.

- I. Appointment of Committees.
- II. Duties of Committees.

Classification of Orders.

Appendix. III. Orders regulating the practice of The House with regard to Private Bills.

IV. Orders regulating the practice in the Private Bill Office.

I.
Appoint-
ment of
Commit-
tees.

I. Appointment of Committees.

Commit-
tee on Pe-
titions for
Private
Bills.

I. That a Committee be appointed at the commencement of every Session, consisting of Members, of whom shall be a Quorum ; and such Committee shall be denominated "The Select Committee on Petitions for Private Bills."

Committee
on Stand-
ing Orders.

II. That a Committee be appointed at the commencement of every Session, consisting of Members, together with the Chairman of the Committee on Petitions for Private Bills, of whom shall be a Quorum ; and such Committee shall be denominated "The Select Committee on Standing Orders."

Committee
on Private
Bills.

III. That a Committee be appointed at the commencement of every Session, consisting of Members, of whom shall be a Quorum ; and such Committee shall be denominated "The Select Committee on Private Bills."

II.
Duties of
Commit-
tees.

II. Duties of Committees.

Committee
on Peti-
tions.

IV. That the compliance with the following Standing Orders shall be proved before the Select Committee on Petitions for Private Bills, and any parties shall be at liberty to appear and be heard, by themselves, their agents and witnesses, upon any Petition which may be referred to such Committee, complaining of a non-compliance with the Standing Orders

Compli-
ance with
Standing
Orders to

provided the matter complained of be specifically stated in such Petition, and that the party affected by the non-compliance with the Standing Orders be cognizant of, and consent to, the presentation of the Petition, and that such Petition be presented clear days before the first meeting of the Committee to consider the same.

Appendix.
—
Committee
on Petitions.
—
be proved
before.

V. That in case of any application for a Private Bill relating to Upper Canada, the Committee may admit proof of the compliance with the Standing Orders which refer to the affixing to the doors of District Court-Houses the requisite Notices, on the production of affidavits sworn before any, &c., (*here insert the authority qualified to receive the testimony.*)

Proof of
Notices on
Court-
house
doors,
where
Bills relate
to Upper
Canada.

VI. That in the case of any application for a Private Bill relating to Lower Canada, the Committee may admit proof of the compliance with the Standing Orders which refer to the affixing to the Church doors the requisite Notices, on the production of affidavits sworn before any, &c., (*here insert the authority qualified to receive the testimony.*)

Proof of
Notices on
Church
doors,
where
Bills
relate to
Lower
Canada.

VII. That when the Committee shall report to the House that the Standing Orders have not been complied with, they do report the facts upon which their decision is founded, and any special circumstances connected with the case.

Committee
to report
facts when
Standing
Orders
have not
been com-
plied with.

VIII. That Notices be given in all cases where application is intended to be made for leave to bring in a Bill to grant to any individual or individuals any exclusive rights or privileges whatsoever—or to alter or renew any Act of the Provincial Parliament for the like purpose—which, in its operation, would affect, in

Notices of
applica-
tion.

Appendix. any way, the rights or property of others. (See the
 Committee Book of Rules, Nos. 66 and 70; and the Commons' Orders, No. 14.)
 on Petitions.

Notices to
 be published.

IX. That such Notices be published in successive weeks, in the months of _____ and _____, or either of them, immediately preceding the Session of Parliament in which the application for the Bill shall be made, in the *Canada Official Gazette*, and in some one and the same Newspaper of the District in which the City, Town, or Lands to which such Bill relates shall be situate; or if there be no Newspaper published therein, then in the Newspaper of some District adjoining thereto; or if such Bill do not relate to any particular City, Town, or Lands, in the *Canada Official Gazette* only: and that all the Notices required to be inserted in a District newspaper, be inserted in a French and an English journal, whenever newspapers in both languages are published in said District.

Publica-
 tion of No-
 tices in cer-
 tain cases,
 where Bills
 relate to
 Upper Ca-
 nada.

X. That such Notices, in the case of Bills relating to Upper Canada, which concern any particular City, Town or Lands, shall also be affixed to the Doors of the District Court House, of the Districts to which they specially relate, for _____ successive weeks in the months of _____ and _____, or either of them.

Where
 Bills relate
 to Lower
 Canada.

XI. That such Notices, in the case of Bills relating to Lower Canada, which concern any particular City, Town or Lands, shall also be affixed to the Outer Doors of the Churches of every Parish to which they specially relate, for _____ successive Sundays in the months of _____ and _____, or either of them.

XII. That if it be the intention of the parties applying for leave to bring in a Bill, to obtain powers for the compulsory purchase of Lands or Houses, or to levy any Tolls, Rates or Duties, or to alter any existing Tolls, Rates or Duties, or to confer, vary, or extinguish any exemptions from payment of Tolls, Rates or Duties, or any other rights or privileges, the Notices shall specify such intention.

Appendix.
Committee on Petitions.
Intention to compel purchase of Lands, &c., or to levy or alter Tolls, &c., to be stated.

(Here insert an Order respecting the obtaining consents of persons whose interest or property is affected by any Private Bill. See Assembly Rules, No 64, Commons' Orders, No. 17.)

Applications for consents.

(Here insert, also, Orders requiring Special Notices, Deposits, Consents or other obligations, to be fulfilled in cases of particular kinds of Private Bills, prior to their introduction into Parliament. See Assembly Rules, Nos. 65, 70, Commons' Orders, Nos. 19-45.)

Special Notices in certain cases.

XIII. That when any Report of the Select Committee on Petitions for Private Bills, in which they shall report that the Standing Orders have not been complied with, shall have been referred to the Select Committee on Standing Orders, they shall report to The House whether such Standing Orders as have not been complied with ought or ought not to be dispensed with, and whether, in their opinion, the parties should be permitted to proceed with their Bills, or any portion thereof, and under what (if any) conditions.

Committee on Standing Orders.

To report whether Standing Orders ought or ought not to be dispensed with.

XIV. That when any Petition for leave to dispense with any of the Sessional Orders of The House relating to Private Bills, shall have been referred to the Select Committee on Standing Orders, they shall report to The House whether such Sessional Orders ought or ought not to be dispensed with.

To report whether Sessional Orders ought or ought not to be dispensed with.

Appendix.
 Committee
 on Stand-
 ing Or-
 ders.

To report
 whether
 Clause or
 Amend-
 ment on
 Report
 ought to be
 adopted or
 not by
 House
 without re-
 commit-
 ment.

To report
 whether
 Clause or
 Amend-
 ment on
 Third
 Reading
 ought to be
 adopted or
 not by
 House at
 that stage.

Committee
 on the Bill.

Atten-
 dance of
 Members,
 &c.

Declara-
 tion of
 Members.

XV. That when any Clause or Amendment proposed to any Private Bill on the Report, or the consideration of the Report thereof, shall have been referred to the Select Committee on Standing Orders, they shall report to The House, whether such clause or amendment be of such a nature as not to be adopted by The House without the re-commitment of the Bill, or of such a nature as to justify The House in entertaining it without recurring to that Proceeding, or of such a nature as not in either case to be adopted by The House.

XVI. That when any clause or amendment proposed to any Private Bill on the Third Reading shall have been referred to the Select Committee on Standing Orders, they shall report to the House whether such clause or amendment ought or ought not to be adopted by the House at that stage.

(Here provision should be made to ensure the attendance of Members of the Committee on Private Bills during discussions and investigations affecting any particular Bill referred thereto. It may be thought advisable to empower this Committee to divide into Sub-Committees for this purpose ; at any rate, it is recommended that before the Committee proceed to examine any Bill, the following Form of Declaration be signed and delivered to the Clerk of the Committee, by every Member required to attend the same during the sittings upon the said Bill.)

“I, A. B., being one of the Members, &c., do hereby declare, that I will never vote on any question which may arise without having duly heard and attended to the Evidence relating thereto.”

(See also Commons' Orders, Nos. 59, 60.)

XVII. That no Petition against a Private Bill be taken into consideration by the Committee on such Bill, which shall not distinctly specify the ground on which the Petitioners object to any of the provisions thereof; and that the Petitioners be only heard on such grounds so stated; and if it shall appear to the said Committee that such grounds are not specified with sufficient accuracy, the Committee may direct that there be given in to the Committee a more specific statement, in writing, but limited to such grounds of objection so inaccurately specified.

Appendix.

Committee on the Bill.

Petition against Bill not to be considered except grounds of objection sufficiently specified.

XVIII. That the names of the Members attending each Committee (or, each meeting of the Committee with reference to a particular Bill,) be entered by the Clerk on the Minutes of the Committee; and if any Division shall take place in the Committee, the Clerk do take down the names of Members voting in any such division, distinguishing on which side of the question they respectively vote; and that such list be given in with the Report to The House.

Names of Members to be entered on Minutes.

XIX. That no Committee shall have power to examine into the compliance or non-compliance with such Standing Orders as are directed to be proved before the Select Committee on Petitions for Private Bills, unless by special order of The House.

Committee on Bill not to enquire into certain Standing Orders.

XX. That the Committee may admit proof of the Consents of parties concerned in interest in any Private Bill, on the production of Certificates in writing of such parties, whose signature to such certificate shall be proved by *one* or more witnesses, unless the Committee shall require further evidence.

Consents may be proved by verified certificates.

(Here insert Orders requiring certain clauses and provisions to be inserted in particular classes of Bills,

Special Orders for particular Bills.

Appendix. *and requiring certain Proceedings to be had in the Committees thereon.* See Commons' Orders, Nos. 76—
Committee on the Bill. 78, and 84—97.)

Plan, &c., to be signed by Chairman.

XXI. That every Plan, and Book of Reference thereto, which shall be produced in evidence before the Committee upon any Private Bill, (whether the same shall have been previously lodged in the Private Bill Office, or not,) shall be signed by the Chairman of such Committee with his name at length; and he shall also mark with the Initials of his name every alteration of such Plan and Book of Reference, which shall be agreed upon by the said Committee; and every such Plan and Book of Reference shall thereafter be deposited in the Private Bill Office.

Committee Bill and Clauses to be signed by Chairman.

XXII. That the Chairman of the Committee do sign, with his name at length, a printed copy of the Bill, (to be called the Committee Bill,) on which the amendments are to be fairly written; and also sign, with the initials of his name, the several clauses added in the Committee.

Chairman to report on Allegations of Bill, &c.

XXIII. That the Chairman of the Committee upon every Private Bill shall report to The House, that the allegations of the Bill have been examined, and whether the parties concerned have given their consent, (where such consent is required by the Standing Orders,) to the satisfaction of the Committee.

Committee to report Bill in all cases.

XXIV. That the Committee to whom any Private Bill shall have been referred shall report the Bill to The House, whether such Committee shall or shall not have agreed to the Preamble, or gone through the several clauses, or any of them; and when any alteration shall have been made in the Preamble of

the Bill, such alteration, together with the ground of making it, shall be specially stated in the Report.

XXV. That when the Committee on Private Bills shall report to The House that the Preamble of any such Bill has not been proved to their satisfaction, they shall also state the grounds upon which they have arrived at such a decision.

Appendix.
If Com-
mittee re-
port Pre-
amble not
proved, to
state
grounds of
their deci-
sion.

XXVI. That the Minutes of the Committee on every Private Bill be brought up and laid on the Table of The House, with the Report of the Bill.

Minutes of
Commit-
tee.

III. The Orders regulating the Practice of The House with regard to Private Bills.

III.
Practice of
The House.

XXVII. That no Private Bill be brought into this House, but upon a Petition first presented: and that such Petition be signed by the parties, or some of them, who are suitors for the Bill.

Petition
for Bill, and
how to be
signed.

XXVIII. That all Petitions for Private Bills be presented within fourteen days after the first Friday in every Session of Parliament.

Petitions
when to be
presented.

(See Assembly Rules, No. 67.)

XXIX. That all Petitions for Private Bills, and all Petitions for additional provisions in Private Bills, and all Private Bills brought from the Legislative Council, after having been read a First Time, shall be referred to the Select Committee on Petitions for Private Bills.

Petitions
for Private
Bills, &c.,
and Coun-
cil's Bills, to
be referred
to Com-
mittee on
Petitions.

XXX. That all Reports of the Select Committee on Petitions for Private Bills, in which they shall report that the Standing Orders have not been complied with, be referred to the Select Committee on Standing Orders.

Reports,
that Stan-
ding Or-
ders have
not been
complied
with, to be
referred to
Com. on S.
Orders.

Appendix.

Petitions for leave, &c., to be referred to Committee on Standing Orders.

What Bills to be printed, at whose expense, and when.

Rates, Tolls, and other matters to be inserted in *Italics*.

Time between First and Second Reading.

No Petition complaining of Standing Orders, after Second Reading.

Second Reading not to take place till two months after last Notice.

Fees, when to be paid.

XXXI. That all Petitions for leave to dispense with any of the Sessional Orders of The House relating to Private Bills, be referred to the Select Committee on Standing Orders.

XXXII. That every Private Bill (except Naturalization Bills) be printed, at the expense of the Parties applying for the same: and printed copies thereof deposited in the Private Bill Office for the use of Members, before the *First* Reading.

XXXIII. That the proposed amount of all Rates, Tolls, and other matters heretofore left blank in any Private Bill when presented to The House, be inserted, in *Italics*, in the printed Bill.

XXXIV. That there be three clear days between the First and Second Reading of any Private Bill.

XXXV. That this House will not receive any Petition complaining solely of a non-compliance with the Standing Orders of The House, in respect of any Private Bill, subsequently to the Second Reading of such Bill, unless in the case of those Standing Orders which must necessarily be taken into consideration by the Committee on the Bill.

XXXVI. That no Private Bill be read a second time, until after the expiration of two calendar months from the day the last Notice shall have been given in the Newspaper.

XXXVII. That no Private Bill, or Clause, for the particular interest or benefit of any Person or Persons, County or Counties, Corporation or Corporations, or Body or Bodies of People, be read a Second time, unless Fees be paid for the same.

XXXVIII. That every Private Bill, after having been read a Second time, shall be referred to the Committee on Private Bills.

Appendix.
Bills referred to Committee on Private Bills.

XXXIX. That there be clear days between the Second Reading of every Private Bill, and the sitting of the Committee thereupon.

Time between Second Reading and Committee.

XL. That when any Clause or Amendment is offered upon the Report, or the consideration of the Report, or the Third Reading of any Private Bill, such Clause or Amendment shall be referred to the Select Committee on Standing Orders : that such Clause shall be printed : and when any Clause is proposed to be amended, it shall be printed *in extenso*, with every addition or substitution in different type, and the omissions therefrom included in brackets.

Clauses and Amendments proposed on Report or Third Reading to be referred to Committee on Standing Orders.

XLI. That when any Clause or Amendment upon the Report, or the consideration of the Report, or the Third Reading of any Private Bill, shall have been referred to the Select Committee on Standing Orders, no further proceeding on either of such stages shall be had, until the Report of the said Select Committee shall have been brought up.

When referred, no further proceedings to be had until Report of Committee on Standing Orders.

XLII. That no Private Bill shall pass through two stages on one and the same day, without the special leave of The House.

Bills not to proceed two stages on same day.

XLIII. That, (except in cases of urgent and pressing necessity,) no motion be made to dispense with any Sessional or Standing Order of The House, without due notice thereof.

Notice to be given of motion for dispensation.

Appendix. *IV. The Orders regulating the Practice in the Private Bill Office.*

IV.

Practice in
the Private
Bill Office.

Private
Bill Office
and Regis-
ter.

XLIV. That a Book, to be called "The Private Bill Register," be kept in a Room, to be called "The Private Bill Office," in which Book shall be entered by the Clerk, or Clerks, appointed for the business of that office, the name, description and place of residence of the Parties applying for the Bill, or their Agent, and all the Proceedings, from the Petition to the passing of the Bill : such entry to specify briefly each day's Proceeding in The House, or in any Committee to which the Bill or Petition may be referred ; the day and hour on which the Committee is appointed to sit ; the day and hour to which such Committee may be adjourned ; and the name of the Committee Clerk : Such Book to be open to public inspection daily, during office hours.

Plans, &c.,
to be lod-
ged.

XLV. That all Plans, Sections, Books of Reference, Lists of Owners and Occupiers, Estimates, Copies of the Subscription Contracts, and Declarations required by the Standing Orders of The House, be lodged in the Private Bill Office ; and that the receipt thereof be acknowledged accordingly, by the Clerk of the said Office, upon the said Documents, and upon the Petition, before it is presented.

Examina-
tion of
Bill.

XLVI. That between the First and Second Reading of every Private Bill, every such Bill shall, according to its priority, be examined with all practicable dispatch, by the Clerk of the Private Bill Office, as to its conformity with the Rules and Standing Orders of the House, and, if not in due form, the Clerk shall specify thereon the page in which any irregularity occurs, and shall enter the day of such Examination in a Book to be kept for that purpose.

XLVII. That a filled-up Bill, as proposed to be submitted to the Committee on the Bill, and in the case of a re-committed Bill, a filled-up Bill, as proposed to be submitted to the Committee on re-committal, be deposited in the Private Bill Office, one clear day before the meeting of the Committee on every Private Bill; and that all Parties shall be entitled to a copy thereof, upon payment of the charges for making out Amendments of such Bill.

Appendix.
Filled-up Bill to be deposited in Private Bill Office.

XLVIII. That when it is intended to bring up any Clause, or to propose any Amendment, on the Report, or the consideration of the Report, or on the Third Reading of any Private Bill, Notice shall be given thereof, in the Private Bill Office, on the day previous to such Report, or consideration of the Report, or Third Reading.

Notice to be given of Clauses, &c., on Report, or consideration of Report, or Third Reading.

XLIX. That the Clerk of the Private Bill Office do prepare, daily, Lists of all Private Bills, and Petitions for Private Bills, upon which any Committee is appointed to sit; specifying the hour of meeting; and the room where the Committee shall sit; and that the same be hung up in the Lobby of The House.

Daily lists of Committees sitting.

L. That every Plan, and Book of Reference thereto, which shall be certified by The Speaker of The Legislative Assembly, in pursuance of any Act of the Provincial Parliament, shall previously be ascertained and verified, in such manner as shall be deemed most advisable by The Speaker, to be exactly conformable, in all respects, to the Plan and Book of Reference which shall have been signed by the Chairman of the Committee upon the Bill.

Plans to be verified as Mr. Speaker shall direct. Fees.

Appendix.

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Fees.

The Fees to be levied should, as has been already suggested, be made payable into the Private Bill Office. The Tariff of Fees might be framed somewhat after the style of that appended to The House of Commons' Orders, intituled "Fees to be taken in the Private Bill Office," though a much shorter scale of payments would probably suffice.

A. T.



