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# DECISIONS OF THE SPEAKERS

OF THE

Legislative Assembly and House of Commons

OF CANADA,

From 1841 to June 1872.

WITH AN

APPENDIX,

CONTAINING THE SPEAKERS' DECISIONS ON

Election Petition Recognizances.

BY AUG. LAPERRIERE,

*First Clerk, Library of-Parliament.*

Published by Authority.

OTTAWA:

PRINTED BY TIMES PRINTING AND PUBLISHING COMPANY, WELLINGTON STREET.

1872.

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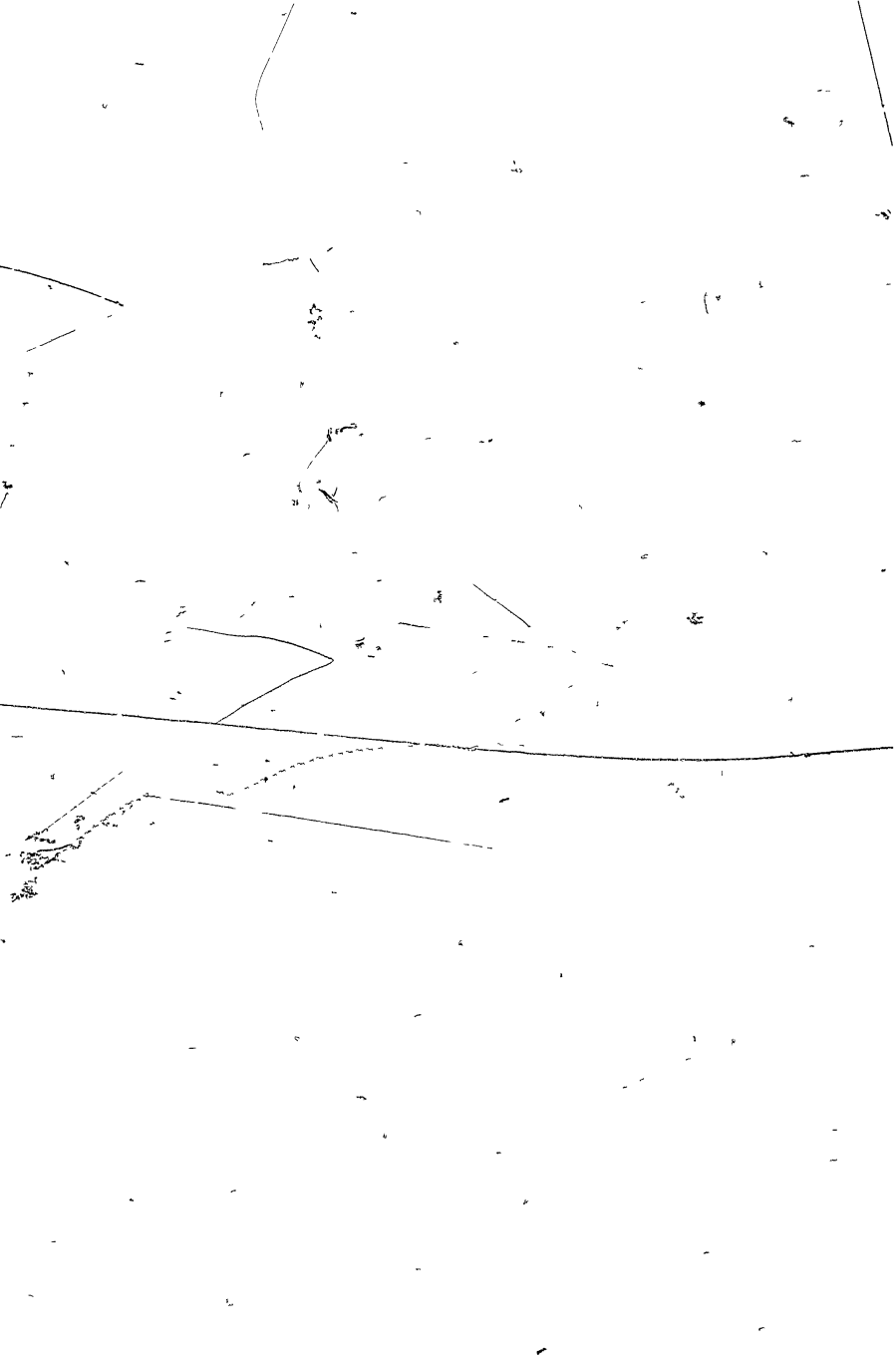


**DEDICATED**

**BY KIND PERMISSION,**

**To the Hon. James Cockburn, Q.C.,**

**SPEAKER OF THE HOUSE OF COMMONS.**



## PREFACE.

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In 1859 the compiler of this work was instructed to collect and arrange in folio volumes, for use in the Library of Parliament, the Debates of the two Houses of the Legislature, as reported by the principal newspapers published at the Seat of Government.

A few years later, in 1863, it occurred to him to extract from these Debates, and to collate for his own use, the Questions of Order which had been raised in the Legislative Assembly, while the Debates were pending—to make a brief synopsis of each, and to give the Speaker's decision in every case, with references to the date of the debate, and the page and volume of the debates, or the Journal of the House, when officially recorded, wherein the decision is contained.

Having devoted considerable time to this work, his official duties compelled him to lay it aside, but during the Session of 1866, a high authority having had occasion to make use of the work in its unfinished condition, advised him to complete it. With this encouragement, and convinced of the utility of the work, he resumed his labours upon it, and devoted all his spare time to complete the work, from the period of the Union in 1841 to the present day.

## PREFACE.

In view of utility to future Speakers, and to parties contesting elections, the compiler has added to the work an Appendix, in which the decisions by two of our Speakers, under the provisions of the Act for the trial of Election Petitions, in questions of Recognizances, are given. In these decisions will be found the authorities cited by both parties, and the elaborate ruling of the Speaker thereon.

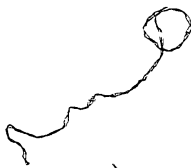
The compiler, before going to the public, must acknowledge his deep sense of obligation to Mr. Alpheus Todd, Librarian of the Dominion Legislature, for the important assistance he has given him in revising this little work, and by adding marginal notes to the several cases.

However imperfect this work may be, the compiler trusts that it may, at all events, be found useful, and thus realize the object he had in view in its preparation.

Ottawa, June, 1872,

## SPEAKERS' DECISIONS.

<i>Names of the Speakers.</i>	<i>Was Speaker from.</i>	<i>Number of Decisions Recorded.</i>
Hon. Austin Cuvillier.....	June 1841 to Sept. 1844...	1
“ Sir Allan N. MacNab..	Nov. 1844 to Feb. 1848.....	3
“ A. N. Morin.....	Feb. 1848 to Oct. 1851.....	8
“ John S. Macdonald....	August 1852 to June 1854	7
“ L. V. Sicotte.....	Sept. 1854 to Nov. 1857....	5
“ Henry Smith.....	Feb. 1858 to June 1861..	56
“ Jos. Ed. Turcotte.....	March 1862 to May 1863...	26
“ Lewis Wallbridge.....	August 1863 to Nov. 1867	38
“ James Cockburn.....	Nov. 1867 to June 1872....	55
		199



## DECISION BY MR. SPEAKER CUVILLIER.

**NO. 1.**—Address to His Excellency. Motion, to add a paragraph to an Address to Address already agreed to, objected to by the Speaker as <sup>Governor.</sup> being unparliamentary. Objection over-ruled by the House on appeal.

*Mr. Price* moved “That an humble Address be presented to His Excellency the Governor General, representing the deep regret felt by this House, at the retirement of certain members of the Provincial Administration, on the question of their right to be consulted on what this House unhesitatingly avows to be the Prerogative of the Crown,—appointments to office; and further to assure His Excellency that their advocacy of this principle entitles them to the confidence of this House, being in strict accordance with the principles embraced in the Resolutions adopted by this House on the 3rd Sept., 1841” Several amendments were proposed and negatived. The main motion having been agreed to on division, the *Hon. Mr. Boulton* moved to add the following paragraph to the said Address:—“That this House, in dutiful submission to their Gracious Sovereign, and with the utmost respect for the exalted station and high character of His Excellency, is most anxious to guard against any misconstruction, which possibly might be placed upon the affirmative declaration of their opinion, upon this delicate and most vitally important constitutional question, and therefore most humbly beg leave to disclaim, in a negative form, any desire that the Head of the Government should be called

“ upon to enter into any stipulation, as to the terms upon which a Provincial Administration may deem it prudent either to accept of or continue in office ; that mutual confidence, which is essential to the well being of any government, necessarily presumes that they are understood, while a due respect for the Prerogative of the Crown, and proper constitutional delicacy towards Her Majesty’s Representative, forbid their being expressed.” *The Speaker* objected to the said motion as being unparliamentary and out of order. This decision was over-ruled by the House on division, and the said paragraph added to the Address.

2nd December, 1843.—*Journal*, pp. 186, 187.

#### DECISIONS BY MR. SPEAKER MACNAB.

Motions in French.

No. 2.—Motion refused to be received on account of its being written in the French language.

A petition of *Wm. Thurber* and others, of the county of Lotbinière, having been referred to a Select Committee to report thereon, *Mr. Laurin* moved to refer the petition of *Daniel Byrne* and others, of the parish of St. Sylvester, in the said county, to the same Committee. The Speaker refused to receive this motion, on account of its being written in the French language, contrary to the forty-first clause of the Union Act.

An appeal having been made to the House, from Mr. Speaker’s decision, the Speaker’s ruling was sustained by the House, upon division, by a majority of one.

17th February, 1845.—*Journal*, pp. 264, 265.



No. 3.—No interference is justifiable, on the part of the House, with an Inquiry pending before a sworn Election Committee. Motion to refer to the Committee on Privileges and Elections a petition complaining of the report of the Commissioners appointed to take evidence on the Oxford controverted election, declared to be inadmissible. Election matters.

*Mr. Smith* (of Frontenac) moved that the petition of *Robert Riddell*, the sitting member for the county of Oxford, presented to this House, on Friday, the twentieth of March last, complaining of the proceedings of the Commissioners appointed, under the statute for the trial of controverted Elections, to take evidence in the matter of the said Election, and praying that the House will interpose on his behalf, be referred to the Standing Committee on Privileges and Elections, the Speaker having read the motion, decided that it was out of order, and could not be received.\*

An appeal being made to the House from *Mr. Speaker's* decision, he was sustained by a vote of 58 to 13.

2nd April, 1846.—*Journal*, p. 52.

No. 4.—Bill to incorporate the city of Kingston declared to be a private bill and subject to the payment of a fee Private Bills.

The order of the day for the second reading of the Bill to amend the tenth section of the Act to incorporate the town of Kingston having been read, *Mr. Smith*, of Frontenac, moved the second reading of the Bill, whereupon *Mr. Speaker* declared the bill to be of a private nature, and subject to the provisions of the seventy-first Rule of the House as to the payment of a Fee thereon. *Mr. Smith*, of Frontenac, then moved that the Rule of the House which requires the payment of twenty pounds be suspended in so far as relates to this Bill, which was

\* See further, on this point, No. 16.

agreed to, on division. Then the Bill was read a second time on division.

15th July, 1847.—*Journal*, p. 150

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### DECISIONS BY MR. SPEAKER MORIN.

Money Bill  
from Legis-  
lative Council

NO. 5.—The Speaker calls attention to a Bill (from the Legislative Council) imposing penalties, &c. The House agrees to waive its privileges, in order to expedite public business

*Mr. Solicitor General Blake* having moved the order of the day for the third reading of the engrossed Bill, from the Legislative Council, intituled: "An Act to make provision for the preservation of the Public Health, in certain emergencies," *Mr. Speaker* called the attention of the House to the 10th clause of the said Bill, which imposes certain penalties relating to the prevention or punishment of offences, it being a case in which, agreeably to the 49th Rule, the House would probably think fit not to insist on their privileges. He also directed attention to the 7th clause of the Bill authorizing the proposed Boards of Health to expend certain moneys which may be appropriated by Parliament for the purposes of the Act—the said clause being intended to carry out the intentions of Parliament in granting public money for such purposes, and not actually appropriating the same, and submitted whether it would not be expedient, with a view to expedite the business of the Legislature, that the House should agree to waive its privileges in this instance also.

It was then resolved, That in order to expedite the public business, this House, adhering to its declaration on the exercise of its privileges, does not deem it expedient to insist on them by laying

aside the said Bill Whereupon the Bill was proceeded with.\*

3rd April, 1849.—*Journal*, p. 206.

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NO. 6.—A Bill for the division of a District is not a Private Bill.

Private Bill.

*Mr. Notman* having moved the second reading of the Bill to divide the District of London, in the Province of Canada, and for other purposes; *Mr. Wilson* enquired whether a notice was required to have been published prior to the introduction of the Bill? The *Speaker* stated, as his opinion, "that no notice was required, the measure being of a public nature, and several like Bills having been introduced in the same manner during the present Session."

And an appeal being made to the House, from *Mr. Speaker's* decision, the House divided, and the decision of the *Speaker* was sustained.

23rd April, 1849 — *Journal*, p 256.

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NO. 7.—Bill respecting the meeting of Parliament, declared out of order, as being repugnant to the Imperial Act of Union.

Bill contrary to Union Act.

Upon motion for the second reading of the "Bill to fix the time and place for the meeting of Parliament" objection was taken that the Bill was out of order, on account of its repugnance to the provisions of the Act of the Imperial Parliament, 3 and 4 Vic., ch. 35, *Mr. Speaker* declared that in his opinion, the bill was not in order, because it was repugnant to

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\* On the 10th August, 1850, the *Speaker* called the attention of the House to the fact that one of the amendments made by the Legislative Council to the Bill for the more effectual suppression of Intemperance, increased the fee on tavern licences, and submitted whether it would not be expedient (to expedite business) that the House should waive its privileges in this instance. Upon division, the House agreed to waive its privileges.

the said Act, and could not be entertained. On appeal to the House this decision was sustained by a vote of 37 to 15. \*

12th June, 1850.—*Journal*, p. 64.

**Minority Report.** **NO. 8.**—Select Committee. Motion to refer back a report of a committee, with instruction to insert therein a written protest of the minority of the said committee, declared out of order.

*Mr. Wilson* having read in his place the first report of the Committee on Public Income and Expenditure, a motion was made that the report be now received. In amendment, the *Hon. Mr. Cayley* moved, to re-commit the report with instruction to insert in it a written protest signed by the minority of the said committee. *Mr. Speaker* objected to the motion as being irregular in form and not in the shape of an instruction on special matters, but of a protest by the minority of the committee under their signature. The report was then received, upon a division.

9th July, 1850.—*Journal*, pp. 130, 131.

**Unparliamentary Motion.** **NO. 9.**—A motion that is prefaced throughout and that is not in accordance with the notice given, is unparliamentary.

The *Hon. Mr. Boulton* having moved a resolution, to draw the attention of His Excellency the Governor General to certain statements and allegations in reference to the dismissal of *Dr. Park*, late Medical Superintendent of the Toronto Lunatic Asylum, the *Speaker* declined receiving the motion, stating that it was neither parliamentary nor in order, being prefaced throughout, and not in the

\* On June 5th, 1851, (see *Journal*, p. 51) a motion to introduce a similar bill was made by the *Hon. Mr. Boulton*, but the *Speaker* declined to receive it, on the same ground.

shape of an Address, in accordance with the notice given.

This decision was sustained, on appeal, by a vote of 46 to 2.

5th August, 1850.—*Journal*, pp. 239, 242.

**No. 10.**—A Question of which no Notice has been given cannot be put. Notices.

*Mr. Perry* moved that it was expedient to authorize the holding of a general Convention by the People, to consider various proposed changes in the Constitution and the laws, now agitating the public mind,—as, for example, the amendment of the Constitution,—extension of the Elective Franchise,—abolition of Property Qualification for Members, &c., &c. A member objected to the motion being put to the House, on the ground that no notice thereof had been given. The *Speaker* maintained the objection, and declared his opinion that the question could not be put this day.

Upon appeal to the House this decision was sustained, by a vote of 23 to 3.

10th August, 1850.—*Journal*, pp. 280, 281.

**No. 11.**—A motion containing Resolutions not included in the notice, Notices, declared to be out of order

The *Hon. Mr. Boulton* moved that this House do now resolve itself into a Committee to take into consideration the state of the Province, with reference to the resignation by the *Honorable Robert Baldwin* of his seat in the Cabinet, and to his continuing to hold the subordinate office of Attorney General, to which that seat has, since the Union,

been attached; with an Instruction to the Committee, to consider certain Resolutions relating thereto, and report thereon to the House. Objection having been taken that no notice of the Resolutions appended to the said motion had been given; and an appeal having been made to the chair, *Mr. Speaker* decided that on that account the motion was not in order.

10th July, 1851.—*Journal*, pp. 153, 154.

**Speaker's Vote No. 12.**—The *Speaker* being called upon to give his vote on a Bill for increasing the Representation (which, by the 26th section of the Union Act, requires the concurrence of two-thirds of the members of the House at the 2nd & 3rd reading) declares that he is precluded from voting

The order of the day having been read, for resuming the debate upon the Second reading of the Bill to enlarge the Representation of the people of this Province in Parliament, notice was taken that the 26th section of the Imperial Act 3 & 4 Vict. ch. 35, provides, that it shall not be lawful to present such Bills to the Governor of this Province for Her Majesty's Assent, unless the 2nd and 3rd readings thereof shall have been passed with the concurrence of two-thirds of the members for the time being of both Houses of the Legislature respectively; and *Mr. Speaker* being called on to give his vote, he declared it to be his opinion, on comparing the 26th and 34th sections of the said Act, that in this case the *Speaker* was precluded from voting, and that the provision in the 26th section related to a proceeding with another Branch of the Legislature, without establishing any other process or mode in this House. On appeal, the decision of the *Speaker* was sustained by a vote of 43 to 28.

29th July, 1851.—*Journal*, p. 205.

MR. SPEAKER SANDFIELD MACDONALD'S  
DECISIONS.

No. 13.—The members of a proposed Committee, exceeding five in Select Committee number, cannot be named in the motion, if objected to by one member of the House.

*Mr. Brown* moved that a Select Committee be appointed, composed of six members, named in the motion, to take into consideration several petitions on the subject of Sabbath labour in the Post Office Department and on the Canals, and to report thereon by Bill or otherwise. Objection was taken to the Committee being named by the mover. The Speaker decided that any one member objecting to the same was sufficient to prevent the motion being received. Upon appeal to the House the Speaker's decision was sustained by a vote of 40 to 25.

The Committee was then struck by the House.  
9th September, 1852.—*Journal*, p. 127.

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No. 14.—No petition, or part of a petition, which asks for pecuniary compensation, can be referred to a Select Committee unless recommended by the Governor General. Member called to order and named.

*Mr. Dubord* moved that the petition of *Jos. Painchaud, Esq.*, and others, of the City of Quebec, praying indemnity for damages sustained to their property by reason of the act of *Colonel Higgins* in blowing up, with powder, certain buildings during the fire in the said city, on the 26th December, 1851, be referred to a Select Committee, to examine the contents thereof and to report thereon. *Mr. Christie*, of Gaspé, moved in amendment that so much only of the said petition, as asks for inquiry, be referred to a Select Committee to report thereon. The Speaker declared that the proposed amendment

and motion were both out of order. *Mr. Christie*, of Gaspé, having persisted in addressing the House after being repeatedly called to order by Mr Speaker, he was eventually named by Mr. Speaker. *Mr. Christie* then explained, and his explanations were accepted by the House.

9th September, 1852.—*Journal pp. 125, 126.*

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**Railway Bills. No. 15.**—The second reading of a Bill to incorporate a Railway Company objected to as being inconsistent with the provisions of the General Railway Clauses Consolidation Act, and declared out of order

*Mr. Cauchon* moved that the Order of the Day for the second reading of the Bill to incorporate the Grand Trunk Railway Company of Canada. Whereupon the Speaker stated as his opinion, that inasmuch as the fifth and sixth sections of the "Railway Clauses Consolidation Act" provide that no Bill for a special Act for the establishment of a Railway shall be received by the Legislature until certain requirements prescribed by the said clauses, shall be first observed and carried out, and the said clauses being yet unrepealed, and this Legislature, if so disposed, having the power to repeal them, the Order of the Day for the second-reading of the said Bill cannot be proceeded with.

An appeal being made from Mr Speaker's decision, the House divided and the decision was sustained.

5th October, 1852.—*Journal, pp. 247, 248.*

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**Election Com. No. 16.**—The House ought not to interfere in regard to any question which may arise before a sworn Election Committee, during the progress of their enquiry.

*Mr. Sicotte*, from the Select Committee appointed



to try and determine the matter of the petitions complaining of an undue election and return for the County of Megantic, informed the House that at the sitting of the Committee, this day, *Dunbar Ross, Esq.*, one of the petitioners, moved "That inasmuch as the number of members composing the said Committee has been unavoidably reduced to less than three, to wit, to the number of two, and has so continued for the space of three sitting days, and upwards, to wit, from the 16th day of February, inclusive, to the 28th day of the same month, also inclusive, that the said Committee be dissolved; and that the same be reported to the House for such order thereupon as to law and justice may appertain."

*Mr. Sicotte* further informed the House that after deliberating upon the said motion, and hearing the counsel for the sitting member in reply, the Committee had agreed to the following resolution, one member dissenting:—That the said motion be rejected, and the trial of the petitions referred to the Committee proceeded with. *Mr. Sicotte* moved the concurrence of the House in this resolution. Whereupon Mr Speaker declared that, in his opinion, the motion for confirming the resolution of the said Committee should not be entertained by the House, inasmuch as he considered that the Committee having had the power conferred upon them [by statute] to decide the question the House should not interfere.\*

*1st and 3rd March, 1853—Journal, pp. 534, 544.*

\*The assumption by *Mr. Dunbar Ross* that the Select Committee for the trial of the Megantic election was dissolved, for the reasons alleged in the motion above stated, was founded upon an erroneous interpretation of the statute. The Committee, after careful consideration, determined that they were still in existence, and accordingly proceeded with the case. This conclusion was ratified by the General Committee of Elections, who reported to the House on the 15th March, 1853, in their minutes, an opinion and statement explanatory of the statute. These minutes were ordered to be printed

Money appro- No. 17.—A Bill containing a money appropriation not recommended by  
 priations. His Excellency is out of order.

The order of the day for the second reading of the Bill to provide for the more speedy distribution of the Statutes, being read, Mr. Tessier moved its second

“for the use of members,” but (see Journal p. 586) were not inserted in the Journals. Fortunately I have succeeded in obtaining from Mr. Alpheus Todd, the Librarian of Parliament, who wrote the opinion for the Committee, a copy of it, which is hereunto appended, as it may be serviceable upon any similar question again arising before the House, or before an Election Committee

“In considering the point as to what constitutes the “unavoidable” reduction of an Election Committee under the Statute 14 and 15 Victoria, chapter 1, and how far the absence of Members, with or without leave of the House, contributes to that result, the following considerations are submitted to assist in ascertaining the intention of the Legislature in reference to this question.

“It should be observed, that the provisions of our Statute are, in this particular, identical with those in the Imperial Act, from which they have been taken; and that there has been, no substantial variation, so far as this matter is concerned, in any of the English Statutes regulating the trial of controverted Elections, since the first “Grenville Act,” in 1770. (a) This fact enables us to cite and apply, the various English precedents, bearing on the question, from that time until the present.

“The clauses of the Provincial Statute referring to the “absence of Members” of an election committee, and to the “dissolution” of a committee, are numbered 83 to 86. It is necessary, in order to arrive at the proper meaning of these clauses, to construe them together, when the difficulties which present themselves when referring to any single clause, will, it is presumed, disappear.

“By clause 83, the attendance of every member of an Election Committee is required to enable the committee to sit and proceed with business; provision is also made therein for the case of sudden necessity, occasioning or requiring the absence of any Member of the committee. On such an emergency occurring, the clause contemplates either (1) “leave obtained from the House” previously given, on proof of its necessity; or (2) “an excuse allowed by the House at its next sitting,” for “sickness,” or for “other special cause shewn and verified upon oath.” In either case, however, it is declared that “the Member to whom such leave is granted, or excuse allowed, shall be discharged from attending, and shall not be entitled again to sit or vote on such Committee.”

“The clause then states that if all the Members to whom such leave has not been granted, or excuse allowed, do not assemble within one hour from the time appointed for the meeting of the committee, an “adjournment shall be made, and reported to the House, with the cause thereof.” The next clause (84) enacts, with respect to such absentees, that “every Member whose “absence, without leave or excuse, is so reported, shall be directed to attend “the House at its next sitting, and shall then be ordered to be taken into the “custody of the Sergeant at Arms,” “for such neglect of duty, and shall be

(a) See 10 Geo. III, cap. 16, Sec. 21-24; 9 Geo. IV, cap. 22, Sec. 43-46; 7 and 8 Vict., cap. 103, Sec. 72-75.

reading. *Mr. A. N. Morin* moved in amendment, "that the Bill be read a second time this day three months," whereupon notice was taken that the Bill contained a clause for the appropriation of money, and that the recommendation of the Crown had not

"otherwise punished, at the discretion of the House, *unless* it appear to the "House by facts specially stated and verified upon oath, that such Member "was by a sudden accident or by necessity prevented from attending the said "committee "

"By these two clauses provision is made, in the first place, for "unavoidable absence," arising from imperious necessity, and likely to be protracted to a term longer than the House would consider itself justified in delaying the proceedings of the Committee,—in which case, the Member, either with leave given or excuse allowed, is "*discharged*" from all further attendance on the Committee; and in the second place, we find provision made for the casual, inadvertent, or merely temporary absence of a Member, which on being reported to the House, is directed to be dealt with either by censure or punishment, or overlooked, if it shall appear to have been occasioned by "sudden accident or necessity." In the latter instance, it is not added that such casual non-attendance, or the excuse allowed by the House in reference thereto, shall operate to discharge or disqualify the member from any further attendance; on the contrary, this clause is evidently confined to the ordinary cases of absence, which might frequently occur, during a protracted enquiry, whether from accident or from slight indisposition. Where the absence has not arisen from an accidental or unpremeditated cause, but is foreseen by the member himself, he is in duty bound (under the 83rd clause) to acquaint the committee [of the fact, (b) and the cause thereof, that the same may be reported to the House, and the excuse verified upon oath, and if satisfactory "allowed" by the House, as being sufficient to justify his non-attendance, and if need be, to dispense with his further attendance upon the committee. Having arrived at this distinction, between an excuse accepted for *non-attendance merely*, and an excuse allowed as sufficient cause to dispense with the *further attendance* of a member of the committee—a distinction clearly recognised in practice, as a reference to the cases will shew, (c)—the next consideration is to discover the meaning of the Act in reference to the *dissolution* of a committee. Clause 85 provides that the "*death or necessary absence* of one member or two members" only, shall not dissolve a committee, but that "the remaining members shall thenceforward constitute the committee." This "*necessary absence*" is evidently not a mere absence, (referred to in the preceding clause) "without leave or excuse," for that, we have seen, does not operate to disqualify a member from further attendance, must, therefore, be an absence which the House, (pursuant to the 83rd clause,) has inquired into, and upon special cause shewn, and verified upon oath, *excused and "allowed."*

(b) See *Hands on Election Petitions*, page 56; also *Commons' Journals*, vol. 93, page 459.

(c) *Commons' Journals*, vol. 93, page 367, a Member (for illness,) excused for non-attendance, and from any further attendance; and same vol., page 459, a Member excused for non-attendance only, who, as appears by the minutes of the committee, in *Commons' Sessional papers*, 1837-8, vol. XI., pp. 32, 33, afterwards resumed his seat on the committee.

been signified thereto. The *Speaker* declared, that the Bill could not be further proceeded with.

*9th May, 1853. Journal, p. 831.*

"In this view, is understood the 8th clause, which declares, "that if "the number of members able to attend any such select committee be, by "death or otherwise, *unavoidably reduced* to less than three, and so continue "for the space of three sitting days, such select committee shall be dissolved," excepting only "if all the parties before the committee consent thereto," when "the two remaining members," or "the sole remaining member" "shall thenceforward constitute the committee"

"This disability to attend, if arising from death, natural or civil, (as by acceptance of office) becomes officially known to the House, by the issue of a new Writ to supply the vacancy. Of the sufficiency of all other causes of non-attendance to render a member *unable* to attend, the House itself is by the previous clauses, made the judge, it being *only* upon "an excuse "allowed by the House," or upon "leave obtained from the House," that a member is "*discharged from attending*," any such committee (d). No committee, therefore, can be "reduced" by any such cause, or by the mere action of any member or members, without the previous knowledge and sanction of the House.

"The meaning of the words in this clause, providing that the committee, after having become "unavoidably reduced to less than three" shall "so "continue for the space of three sitting days" before it becomes "dissolved," is not so clear, inasmuch as the decease of a member, his statutable avoidance of his seat, or his being excused from further attendance upon a committee, causes which severally combine to reduce an election committee, are circumstances which would ordinarily come under the immediate cognizance of the House, and so would render a delay of three days before appointing a new committee, in place of one which had become dissolved by the operation of all or any of the causes enumerated, wholly unnecessary. It is probable, however, that the reason for this delay may be found in the permission granted to a committee to proceed to a completion of its labours, notwithstanding its reduction, as aforesaid, with the two remaining, or sole remaining member, *provided* "all the parties before the committee consent thereto" inasmuch as it would be but reasonable to allow a certain time to the parties to come to an understanding whether they would agree to proceed with the remaining members as "the committee," in place of requiring the

(d) See the case of the Oxford county election in the Legislative Assembly Journals for 1846; the committee on which, consisting of eleven Members was unable to proceed to business, (on re-assembling after a Prorogation of Parliament,) on the 21st March, owing to the non-attendance of three of its Members. After several adjournments from day to day, it was moved, in the House, on the 26th of March, to resolve, that the committee "having been "unavoidably reduced to less than nine Members, and having so continued "for the space of three sitting days, is dissolved." No vote was taken on this motion, until the 30th of March, when it was negatived, on a division—meanwhile two of the absent Members had arrived, but the committee were still prevented from sitting by the absence of the third. This absence continued until the 3rd of April, when on motion, the committee were empowered to proceed to business on the following day, though the said Member should not then be present. This decision was in strict accordance with the statute, as explained in the text, the proposed resolution having been framed upon an erroneous construction of the law which did not receive the sanction of the House; no reduction of the committee having in fact taken place until the 4th of April, when the absent member, not being in his place, was discharged from any further attendance thereupon. See also Commons' Journals, vol. 58, pp. 5, 10, 11, &c.

No. 18.—Case of a Bill passing through several stages during the same Bills sitting

On November 6, 1852, a Bill in relation to the Etchemin Toll Bridge was read a third time. On motion that the Bill do pass, an amendment was agreed to, to re-commit the Bill, on a future day, with a view to insert another clause therein. At the

immediate dissolution of the committee upon such an emergency. This provision, moreover, may be intended to serve another purpose. In the case of a full committee of five, the disability of *one* or even *two* members from continuing their services thereon, might be of but little consequence; if such disability arose from indisposition, which one or two days relief from duty might remove, the House would probably give leave to the committee to adjourn for that time; if the sickness continued, or appeared at the first as likely to continue, the member would ordinarily be discharged from any further attendance, but supposing the committee to have been reduced to three, and one of those three to be prevented from attending on a given day by sickness, it might become a question whether to empower the Committee to adjourn to a future day (say, for a week) it hopes that the sick member might be then sufficiently recovered to continue his attendance, or whether he should be at once relieved from any *further* attendance, and the committee thereby be *dissolved*. If such an adjournment should be permitted, [and there is nothing in the Act to forbid it] it might be the occasion for much vexatious delay, and expense to the parties concerned, as, in the interval of the adjournment, the member in question might die; but if, taking the words of the clause as intended to be *directory*, and as defining the time beyond which an adjournment, *ought not* to be granted, the House should give leave to the committee to adjourn for one, or two days only (*e*), by the expiration of that time it would be seen whether the sick Member was "able to attend," or whether his continued illness rendered it necessary to excuse him from *any further attendance*, and so occasion [except parties agreed to proceed as aforesaid] a dissolution of the committee (*f*)

Whether this explanation of the meaning of the Act, in deferring the dissolution of the committee until three days after its reduction below the number of three, be correct or not, it would at any rate appear, from a careful examination of English precedents (*g*), that the distinction between an excuse for "non attendance" and an excuse from "further attendance," on an election committee, and of the effect of the same upon the existence of the Committee itself, is one which is not only effectual to bring into harmonious agreement the several clause under consideration, but, it is the only view consistent with an equitable and rational determination of the question, in all its bearings."

(e) See cases cited in Hands on Election Petitions, pp. 57, 58.

(f) There is no case in the English Books of the actual dissolution of a sitting Committee, by reason of reduction of Members, but see the *Bedfordshire case*, 2 *Luders*, pp. 397, 398, where an Act was passed to prevent an anticipated dissolution.

(g) See cases cited in Index to Commons' Journals, 1820-1837, p 517. Also Commons' Journals, vol 103, p 309.

time appointed, (viz., May 25th, 1853. being a later period of the same session) the House went into committee and after some time spent therein, the *Speaker* resumed the chair and the committee reported the bill without amendment. The report was received, on division. Then *Mr. Stuart* moved that the Bill do pass. Objection being made to this motion that it should appear on the orders for a future day; the *Speaker* declared, that as the Bill had been previously read a third time, committed to a committee of the whole House and reported without amendment, the motion was in order. This decision was sustained by the House, on appeal.

25th May, 1853. *Journal*, p. 892.

Money appropriations.

No. 19.—A proposed resolution for a money appropriation, not strictly within the purview of a Bill before the House, cannot be introduced in Committee on the Bill, but must originate in a separate committee of the whole.

*Mr. Chauveau* having moved the third reading of a Bill further to amend the laws relating to the summoning of Jurors in Lower Canada; *Mr. Stuart* moved in amendment that the Bill be re-committed to a committee of the whole, for the purpose of making provision for the payment of Petit Jurors in Lower Canada. *Mr. Speaker* declined receiving this amendment; on the ground that the appropriation contemplated therein should originate in a committee of the whole House. Appeal from this decision having been made, it was confirmed by the House.

10th June, 1853, *Journal*, p. 1057.

No. 20.—Motion for House in committee to consider of a money appro- Money appro-  
 priation, without His Excellency's recommendation, out of priations.  
 order.

*Mr. Charles D'Aoust* having moved the House into committee of the whole, to take into consideration the expediency of providing, either out of the consolidated Revenue Fund of this Province, or out of any other fund that the Government may deem expedient, for the payment of persons summoned from time to time to serve as jurors in criminal prosecutions; the *Speaker* declined to receive the motion, the same tending to an appropriation of public moneys which had not been recommended by Message from His Excellency the Governor General, or otherwise. This decision was confirmed by the House on appeal, by a vote of 59 to 12.

26th Feb., 1855. *Journal*, pp. 593, 594.

No. 21—Resolution in amendment to the third reading of a Bill objected Public Bills.  
 to, because no notice had been given, and because it contained matter that ought rather to form the subject of amendments to the Bill, and because it ought to declare, at this stage, a principle adverse to that of the Bill.

*The Hon. Mr. Spence* having moved the third reading of the "Bill to abolish postage on newspapers published within the province of Canada, and for other purposes connected with the Post Office Department of this Province," *Mr. Mackenzie* moved in amendment to substitute a resolution, taking exception to the Bill, in various points of detail, and protesting against the powers proposed to be conferred by it upon the Post Master General, in certain specified cases. The *Speaker* declined receiving this motion, no notice thereof having been given, and as containing matter which is more properly the subject of amendments, and could not

form the grounds of a resolution; and because such proposed resolution, at this stage of the Bill, ought to be declaratory of some principle, adverse to that of the Bill. The Speaker's decision was confirmed by the House on appeal.

25th April, 1855, *Journal*, pp. 922, 923.

Bill affecting  
Trade.

No. 22.—A Bill to prohibit the traffic in Intoxicating liquors related to Trade, and ought to have originated in Committee of the Whole.

The order of the day for the third reading of the Bill to prevent the traffic in Alcoholic and Intoxicating Liquors being read, Objection was taken that the bill related to Trade and ought to have originated in Committee of the Whole. The *Speaker* stated, that by the 31st Rule of the House, in all unprovided cases, the Rules of the Parliament of Great Britain should be followed, and the Standing Order of the Commons of England, of 1772, declared that Bills relating to Trade be not brought into the House, until the proposition should have been first considered in a committee of the whole House; and, as his duty was to declare what the Rule was, he decided that the Bill before the House, regulating the sale of all Intoxicating Liquors, was a Bill relating to Trade, and altering the Laws concerning the Trade, and came within the meaning of the Standing Order: and he further stated that the practice in the House of Commons had not been uniform, but that when the objection had been taken, the Rule had always been enforced.

An appeal having been made from *Mr. Speaker's* decision it was sustained by a vote of 59 to 46.

30th April, 1855. *Journal*, pp. 957, 958.



No. 23.—Motion declared to be irregular after the sense of the House Motions, had been taken upon one of like import.

The *Hon. Mr. Cayley* having moved the second reading of the Bill to amend the Act amending the Act granting a civil list to Her Majesty, by increasing the salaries of certain judicial and other officers therein mentioned, and to fix those of certain other public officers, *Mr. Laberge* moved the three months hoist, and the question being put, the amendment was lost, on division. Notice being taken, that the *Hon. Messrs. Cayley, Spence, Drummond, Lemieux*, and other Ministers of the Crown, who had voted with the nays, had a direct pecuniary interest in the question, the *Hon. Mr. Cayley* stated that he looked upon this Bill as a general measure, appropriating a salary for the office and not for the individual, and that he claimed the privilege of voting. *Mr. Mackenzie* moved that the vote of the *Hon. Mr. Cayley* be disallowed, which motion was lost on division. Then the *Hon. Mr. Spence* stated that he claimed the right of voting on this question, as the representative of a constituency in Upper Canada, and that he had no interest except in common with the subject at large. *Mr. Mackenzie* then moved that *Mr. Spence's* vote be disallowed. *Mr. Speaker* declared that the sense of the House had just been expressed on the same question, and that it was irregular now to offer a motion on the same matter.\*

Appeal having been made from this decision, the *Speaker* was sustained by a vote of 52 to 7.

18th May, 1855. *Journal*, pp. 1147, 1148.

No. 24.—Motion in amendment to an item of supply, to rescind a former Motion to resolution of the House in the same session, ruled to be in order. rescind a vote,

Upon a motion to concur with a resolution

\* See No. 135.

reported from the Committee of Supply, granting a sum of £50,000 for the erection of Public Buildings at Quebec, an amendment was proposed by *Mr. Holton* to rescind the resolution of the House adopted on the 16th April last, declaring that in the opinion of the House, the city of Quebec was the most eligible place for the future capital of Canada; and that an address be presented to His Excellency, representing that Montréal would be better adapted than the city of Quebec to be the permanent seat of Government, and praying His Excellency to recommend to this House an appropriation for the erection of public buildings in the said city of Montréal. Objection being made to this amendment, that it was irregular and out of order, the *Speaker* decided that, according to the rules of the House, the amendment was in order.

This decision was confirmed on appeal, by a vote of 54 to 40.

25th June, 1856, *Journal*, p. 722.

### MR. SPEAKER SMITH'S DECISIONS.

Petition.

No. 25.—A petition cannot be received and read, until it has lain on the table two days.

*Hon. John S. Macdonald* having read, in his place, the petition of John McNaughton, Esq., and others, “complaining that by reason of the refusal of the Judge to proceed on the application of the petitioners to inquire into matters connected with the illegal return of F. H. Burton, Esq., for the East Riding of the County of Durham, the right of the Petitioners further to contest the said return has been defeated; and praying for the passing of an Act to enable them

to contest the return of the said F. H. Burton, Esq., for the said East Riding of the County of Durham." He then moved that the said petition be now received and read and printed; and that the rules of the House be suspended as regards the same. A question of order being raised, the *Speaker* decided, "that according to the rules of this House, the said "Petition could not be received and read, until it "shall have lain upon the table of the House for "the space of two days."

*2nd March, 1858, Journal, p. 15*

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**No. 26.**—Motion to introduce a Private Bill without moving previously Private Bills, the suspension of the 62nd Rule, (which requires the publication of notices in newspapers prior to applications for Private Bills) decided to be in order.

*Mr. Archambeault*, moved that leave be given to bring in a Bill, to amend the Act of incorporation of the College of l'Assomption; *Mr. Dorion* proposed the following question of order: "Whether the motion to introduce the Bill was in order, inasmuch as no motion to suspend the 62nd Rule of this House, in relation thereto, has been made?" The *Speaker* decided that the motion was in order.

An appeal being made from this decision, the House confirmed it by a vote of 52 to 16.

*11th May, 1858. Journal, p. 447.*

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**No. 27.**—Motion declared in order although it did not appear on the Notice of motion paper, because the required notice of two days had been given.

The *Hon. A. T. Galt* moved "that the Private "Bills relating to Railways and other incorporated

“ Companies take precedence, as far as the second reading is concerned, of other orders of the day ; and that the said Private Bills be called in the order in which they stand.” Objection was raised to the motion, on the ground that it did not appear on the notice paper of the day. Mr. *Speaker* decided that as two days’ notice had been given, the motion was in order ; the member not being precluded from moving, although the notice did not appear on the paper of this day ; the arrangement under which Private measures did not appear on the paper on Government days, was only made as a matter of economy, and it had been understood in making such arrangement, that notices which appeared on the notice paper on the day preceding Government days, could, nevertheless, be taken up on such days.

Appeal having been made from this decision, the House sustained it, by a vote of 59 to 37.

21st May, 1858, *Journal*, p. 499.

Sitting prolonged over two days.

No. 28—Orders of the day to be proceeded with until an adjournment of the House takes place, though the sitting may be protracted over two or more days

The *Hon. John A. Macdonald* having moved, on the 25th May, “ that on every monday during the remainder of the Session, after Routine business and until six o’clock, Private Bills on the Orders of the day be first called in their order of precedence, and after that hour, the orders of the day shall in like manner be called ; that on Tuesdays, Thursdays and Fridays, motions and measures in charge of Members of the government have precedence over other motions and measures ;

“and that on Wednesdays notices of motions shall be “gone through with before the orders of the day “are called,” several amendments were proposed and negatived, during a debate which lasted for two days without intermission. When the usual hour of meeting (3 o'clock P. M.) arrived on the 26th May the House being still engaged in discussing the “*Previous question*,” which had been moved in amendment to the main motion, an objection was made to the continuance of the debate, on the ground that “a new sitting of the House should commence, and that the orders of the Day, of this day, should be proceeded with.” The Speaker decided that the orders of the Day of yesterday must be proceeded with, there having been no adjournment since yesterday, and there not having been a new meeting of the House this day, under the first rule.

Appeal having been made from this decision, the House confirmed it by a vote of 60 to 34.

25 & 26th May, 1858, *Journal*, pp. 506-515.

No. 29.—The House has power to adjourn an Election Committee without the committee having asked for leave to adjourn.

Election  
Committee.

*Mr. Benjamin* having moved, “that the Select Committees on the Election Petitions for the counties of Montmorency and Quebec, and the North Riding of the county of Wellington, be further adjourned until to-morrow, at ten o'clock in the forenoon,” a question of order was raised on the ground that the motion could not be put, inasmuch as the said committee had not asked for leave to adjourn. *Mr. Speaker* decided, that under the 78th section of the Election Petitions Act of 1851, the House may adjourn the sittings of the said committee

for such time as shall be fixed by the House. This decision was confirmed by the House by a vote of 57 to 21.

26th May, 1858. *Journal*, p. 513.

Amendments. No. 30.—Motion in amendment objected to, on the ground that no notice had been given, ruled that no notice was required in the case of an amendment

The *Hon. Malcolm Cameron* having presented a petition concerning the late election for the county of Essex, he moved, that the Returning Officer and his deputies at the said election, be summoned to the Bar of the House, to give evidence, in relation thereto, on "Monday" next. *Mr. Brown* moved to substitute the word *Tuesday* for that of *Monday*. Another amendment to the amendment was then proposed to substitute the word *Saturday* for that of *Tuesday*. This last amendment was agreed to on division. Then *Mr. Powell* moved in amendment that the words: and that this House do meet on Saturday next, at eleven o'clock in the forenoon, be added at the end of the main motion, as amended. Objection was taken that this motion was out of order, inasmuch as no notice thereof had been given. *Mr. Speaker*, decided, that as it was an amendment to a motion then before the chair, and not a substantive motion, it did not come within the Rule of the House, which requires two days' notice to be given.

Appeal from this decision having been made, the House confirmed it by a vote of 65 to 38.

27th May, 1858. *Journal*, pp. 521-523.

Orders of the Day. No. 31.—Orders of the day. No amendment can be offered to a motion that the Orders of the Day be now called.

The *Hon. John A. Macdonald* having moved that

the Orders of the Day be now read, *Mr. Dorion* moved in amendment, that the petition of *Wm. Bristow, Esq.*, complaining of the undue election of *John Rose, Esq.*, for the city of Montreal, and the recognizances entered into on behalf of the same, be referred to the Standing Committee on Privileges and Elections, with instructions to report. Objection being made to this motion, the *Speaker* decided that it was not in order, inasmuch as no amendment could be made to the question: "That the Orders of the Day be now read."

This decision was sustained by the House, on appeal, by a vote of 57 to 35.

27th May, 1858. *Journal*, pp. 525, 526.

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No. 32.—An amendment to an amendment to a motion for the House Amendments on going into committee of supply, ruled out of order Supply.

A motion having been made "that the *Speaker* do now leave the chair, for the House in Committee "on Supply," an amendment was proposed: that the House do not resolve itself into a Committee of Supply until the contemplated changes in the tariff be laid before the House. A second amendment was then proposed, to the effect that the House has not had an opportunity of expressing its opinion as to the selection of Ottawa for the permanent seat of Government; and that before any expenditure of moneys be made for public buildings at the said city, the Government ought to submit the selection made to the consideration of the legislature. Objection being taken that the said amendment was out of order, the *Speaker* decided that inasmuch as the practice of the Imperial Parliament was to permit

but one amendment to be moved on a motion "That the *Speaker* do now leave the chair" on questions of Supply and Ways and Means, and as in the absence of any Rule of this House on the subject, resort must be had to the practice of Parliament, the said amendment to the proposed amendment was out of order.

An appeal having been made from this decision, the House confirmed it by a vote of 69 to 29.

22nd June, 1858. *Journal*, pp. 732, 733.

Amendments. **No. 33.**—An amendment having no affinity with the main motion is out of order.

*Mr. A. T. Gall*, having moved Resolutions in favour of a general confederation of all the Provinces of British North America, a motion in amendment was moved by *Mr. Brown* in favour of Representation by population in the Canadian Parliament, without regard to the division line between Upper and Lower Canada. Objection being taken, the *Speaker* decided, that inasmuch as the amendment was not analogous, and bore no affinity to the main question, it could not be entertained, and was out of order.

7th July, 1858. *Journal*, p. 815.

Election Petition. **No. 34.**—Election petition. The payment by a petitioner into the hands of the Clerk of the sum of £200, after the *Speaker* had decided that his recognizances were objectionable, would not justify a reference of his petition to the General Committee.

*Mr. Piché* moved that the payment of the sum of £200 currency into the hands of the Clerk, made by *J. B. Guévremont, Esq.*, before the decision of *Mr.*



*Speaker* with respect to the recognizances in the contestation of the election for the county of Richelieu was communicated to the House, against the return of *J. F. Sincennes, Esq.*, be declared equivalent to the recognizances which he has offered, and which have been declared by *Mr. Speaker* to be insufficient and that the Election Petition of the said *J. B. Gubremont, Esq.*, be referred to the General Committee on Elections, and proceedings had thereon, so that justice may be done to the parties without regard to the aforesaid formalities; whereupon a question of order was raised, which was decided by the *Speaker* as follows:—That by the Election Petitions Act of 1851, no reference of a Petition to the General Committee of Election could be made in cases where the *Speaker* had given his judgment in favour of the validity of objections raised to the recognizances, and that the 22nd and 52nd sections of the Act before cited were so positive in their terms, that the motion was clearly contrary to law, and consequently out of order.

Appeal having been made from this decision, the House confirmed it by a vote of 51 to 42..

14th July, 1858. *Journal*, pp. 839, 840.

No. 35.—Debate stopped for want of a motion before the Chair

Order in Debate.

A return having been ordered by the House, of all persons under arrest in Upper Canada, for non-payment of money in civil suits; a discussion then arose as to the expediency of bringing in a bankruptcy Bill, to which the speaker put a stop, declaring:—“That the discussion had already proceeded too far, there was really nothing before the chair.”

2nd. March, 1859. (*Parliamentary debates. Colonist.*)

Order in De-  
bate.

**No. 36.**—Debate stopped on a request that a notice of motion might stand over.

A notice of motion for the appointment of a committee to enquire into certain charges against the Honorable Judge Aylwin, having been read, the mover said he desired to let it stand for a few days, but objection being made, a discussion ensued, which was stopped by the Speaker, who declared:— That the subject could not be further debated, as there was nothing before the chair.

17th March, 1859. (*Parliamentary debates. Colonist.*)

Process served  
on Members.

**No. 37.**—Bailiffs serving processes on Members in the lobbies of the House

Bailiffs having served processes on members in the lobbies of the House, the Speaker informed the House, that he had given orders to the Sergeant-at-Arms, should it occur again, to take the bailiffs into custody and bring them to the Bar. He appealed to the House, to sustain him in the course he had taken.

11th April, 1859. (*Parliamentary debates. Colonist.*)

Committal of  
Bills.

**No. 38.**—Suggestion to refer to but one Committee of the Whole all bills intended to be considered in Committee

The *Speaker* in reference to Bills to be passed through committees of the whole, thought it expedient for expediting the business of the House, to suggest that all the Bills to be considered separately in such committees should be referred to but one committee of the whole. A motion to this effect was made, but after a short debate, was withdrawn.

2nd April, 1859. (*Parliamentary debates. Colonist.*)

**No. 39.**—Second Reading of a Bill moved, in the absence of the Member in charge of such bill. Right to make Motions.

In the absence of the member in charge of a Bill of Divorce in favour of John McLean, Esq., another member moved the second reading of the Bill. Whereupon a question of order was raised as to the right to move a measure in the absence of the member in charge thereof? The *Speaker* declared, That he had no hesitation in saying that the motion was in order. But, it would be an act of discourtesy to move that an order be discharged, in the absence of an honorable member who had charge of it.\*

*2nd April, 1859. (Parliamentary Debates. Colonist.)*

**No. 40.**—Third reading of a Bill moved immediately after its passing through a Committee of the Whole. Procedure on Bills.

A Bill for the relief of *John McLean, Esq.*, having been considered in Committee of the Whole, and reported to the House, a motion for the third reading was then made. This gave rise to a question of order, as to whether the third reading of a Bill could be moved immediately after its passing through committee? The *Speaker* read the rule justifying this course, "upon urgent and extraordinary occasions." As to the urgency, it was for the House to determine. They decided in favour of reading the bill a third time.

*27th April, 1859. (Parliamentary debates. Colonist.)*

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\* By reference to No 109, it will be found that this subject was fully discussed, and that it was generally admitted that any member had the right to move a measure in the absence of the member who had charge of it, provided that such measure was a public one.

**Election Com. No. 41.**—A Member whose seat is contested may vote upon a report of the committee to try his own election. A member wishing to be excused may be exempted from voting. A Member (acting Ministerially on behalf of a Committee) may vote against his own motion. Motion to excuse a member from serving on an election committee requires notice if objected to.

A report of the Quebec city election committee, having been made to the House, asking leave to adjourn until next session, and one of the members (*Hon. Mr. Alleyn*) whose seat was contested, having voted for the adoption of the report, the *Speaker* was asked, if he could do so, as he was interested in the matter? The *Speaker* ruled:—"That the vote was good. The Hon. gentleman, had no personal pecuniary interest, which was the only disqualification."\*

Another member (*H. Dubord, Esq.*) who had not voted, was requested to do so, but as he hesitated, a Member moved that he be excused; but the *Speaker* ruled:—"That he could not put the motion, unless the hon. gentleman first expressed a wish to be excused," and having done so, he was excused.

Then a question arose, as to whether a member (*W. F. Powell, Esq.*) could vote against his own motion for the adoption of the report? The *Speaker* ruled:—"That the vote was good, as the honorable gentleman was simply carrying out the direction of the committee of which he was chairman, it could not strictly be said to be his own motion."

At this stage of the proceedings, the motion to adopt the report of the committee being lost, a member of said committee (*Jos Dufresne, Esq.*)

\* See also:—Journal of the House, 1859, p. 553.

asked to be excused from serving on the committee for the remainder of the session. A motion being made to excuse him, a question of order arose thereon. The *Speaker* said:—"A substantive motion could not be put without notice of it being first given, if objected to."

30th April 1859, (*Parliamentary debates. Colonist.*)

No. 42.—Debate stopped on a motion to print a report of committee.

Motion to  
Print Report.

A motion having been made for the printing of a report of the Fishery Committee, an amendment was moved, to refer back the report to the committee, discussion ensuing, the *Speaker* said, "The discussion was out of order, the first motion must go to the printing committee for report."

29th April, 1859. (*Parliamentary debates. Colonist.*)

No. 43.—Notice required to add the name of a Member to a Select Committee already appointed, unless unopposed.

Select Com-  
mittees.

A Bill respecting Justices of the Peace, being read a second time and referred to a Select Committee already appointed to examine another Bill of a similar nature, a motion was made to add the name of the Member in charge of the aforesaid Bill to the committee. The *Speaker* said:—"That it was contrary to rule to move to add another name to the committee without notice." Nevertheless, no objection having been offered, the motion was put and carried.

10th March, 1859. (*Parliamentary debates. Colonist.*)

Select Committees.

**No. 44.**—Member declaring himself opposed to a Bill, cannot be put on a committee thereon.

The second reading of a Bill to amend the law enabling married women to convey their real estate in Upper Canada, having been agreed to, a question of order arose as to whether a member opposed to a Bill could be put on the committee to which such bill was to be referred? The *Speaker* read the rule which clearly stated:—"That no member, who declared himself opposed to a Bill, should be placed "on the Select Committee, to which it was referred." The committee was thereupon named by the House.

22nd March, 1859. (*Parliamentary debates. Colonist.*)

**Private Bills. No. 45.**—All applications for Private Bills must be reported upon by the committee on Standing Orders before the Bills can be introduced into the House.

In this case, a member moved for leave to bring in a Bill to relieve *L. W. Mercer, Esq.*, from disqualifications in reference to the office of sheriff of Norfolk. This motion was ruled out of order by *Mr. Speaker* who said:—"That the standing rules require that a measure such as this must be reported from the committee on standing orders, before it can be introduced. He then read the 27th Rule, in reference to the matter.

18th Feb. 1859. (*Parliamentary debates. Colonist.*)

**Joint Address. No. 46.**—A Joint Address cannot be amended by the House in which it originated, after it has been sent up to the other House.

An Address to Her Majesty the Queen, respecting a postal subsidy to the Canadian line of Ocean Steamers, having been passed by the House and sent

to the Legislative Council for concurrence, the Council adopted the same, and returned it to the House by message. The *Hon. W. H. Merritt* then moved an amendment to the Address, but Mr. *Speaker* ruled it out of order, and said:—"That it was not in the power of the House to amend the Address. A Conference might be demanded, but no amendment could be made any more than in a Bill, which had proceeded from this House, and had come back from the Legislative Council assented to."

2nd March, 1859. (*Parliamentary Debates. Colonist.*)

No. 47.—Motion to adopt a portion of a report of a select Committee, is out of order. Report of a Select Committee.

A member having moved to adopt the concluding portion of a report of the Printing Committee, which referred to the appointment of a Committee to act with one from the Legislative Council, as a Joint Committee, on the subject of the printing of both Houses. Mr. *Speaker* said.—"That he was not aware of any (case of a) portion of a report being adopted, without moving the adoption of the whole report." He suggested that a substantive motion embodying the particular recommendation should be substituted. A motion to that effect was then submitted, but after discussion thereon, the *Speaker* declared:—"The motion was still out of order." He then called the orders of the day; but at the next sitting of the House a message was sent to the Legislative Council requesting their concurrence in the appointment of a Joint Printing Committee.

2nd March, 1859. (*Parliamentary Debates. Colonist.*)

Appointment of Committees **No. 48.**—Motion to strike out the name of the mover of a Committee and substitute another, declared out of order.

The House having agreed, upon motion of *J. M. Ferres, Esq.*, to send a message to the Legislative Council, for a Joint Committee on Printing, the same gentleman moved that *Messrs. Benjamin, Simpson, Bell* and himself, be empowered to act on the Joint Committee, on behalf of the Legislative Assembly. A discussion arising as to the proportion of Ministerial and Opposition members on such Committee, a motion in amendment was moved by *Thos. D'Arcy McGee, Esq.*, to strike out the name of the mover, *Mr. Ferres*, and substitute that of *Wm. Patrick, Esq.* *The Speaker* ruled the motion out of order, and said:—"That the name of the mover of a Committee could not be removed."

3rd March, 1859. (*Parliamentary Debates. Colonist.*)

Introduction of Bills

**No. 49.**—Enquiry whether a Bill had been regularly introduced?

The *Hon. John Rose* having moved the third reading of a Bill respecting Public Works, the *Hon. Geo. Brown* asked whether the bill should not have originated in Committee of the Whole, as it authorised the levying of rates, &c.? *The Speaker* said.—"The Bill did not authorise the levying of any new duties, and he, therefore, ruled it had been regularly introduced."

11th March, 1859 (*Parliamentary Debates. Colonist.*)

Introduction of Bills

**No. 50.**—Bill introduced in blank, declared to be no Bill.

*Hon. Malcolm Cameron* having moved for leave to



introduce a Bill respecting the Representation of the Province, several members called for the reading of the same at length. A discussion ensuing, the *Clerk*, after inquiry said :—" He had simply received the Bill in blank." *The Speaker* then said :—" The motion " was out of order, as there was no Bill."

16th February, 1859: (*Parliamentary Debates. Colonist.*)

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No. 51.—A question which has been proposed and negatived, by way of Questions  
 an amendment to the Address in answer to the Speech from the Throne, cannot be again proposed during the same Session once disposed of

The *Hon. Geo. E. Cartier* having moved the House into Committee of the Whole on resolutions respecting the Seigniorial Tenure, and a discussion arising as to whether it would not be better to consider these resolutions before going into Committee, a motion in amendment was proposed by *Wm. McDougall, Esq.*, in the following words :—" That " instruction be given to the Committee to provide " that nineteen-twentieths of whatever sum or sums " may be required for the settlement and payment " in full of the Seigniorial dues, be paid either by the " *Censitaires*, or out of any funds that can or may be " realized in Lower Canada." This amendment having been already proposed in amendment to the Address in answer to the speech from the Throne, and negatived, the *Speaker* declared it out of order, saying :—" The House had already decided that it " should not be paid either by the *Censitaires* or out " of any of the funds, &c." Another question of order was then raised by the *Hon. M. H. Foley* on one of the resolutions proposed by the *Hon. Geo. Et.*

*Cartier*—"That a part of the funds should be paid " by the Censitaires." *The Speaker* said:—"The " resolution was in order—a part was not the whole."  
8th April, 1859. (*Parliamentary Debates. Colonist.*)

Money Approp-  
riation

No. 52.—Resolutions for a Money appropriation. Amendment, for an Address contemplating a different expenditure from that which His Excellency had recommended is in order.

On motion of the *Hon. Geo. Et. Cartier*, for the reading of resolutions respecting the Seigniorial Tenure reported from a Committee of the Whole, an amendment was proposed by *J. O. Bureau, Esq.*, to substitute other resolutions. The *Hon. Geo. Et. Cartier* then submitted that these resolutions in amendment contemplated a different money expenditure to that which His Excellency had recommended. The *Speaker* said:—"If the resolutions " were all to be embodied in an Address to His " Excellency, praying him to recommend a money " appropriation, he was prepared to rule them in " order." A long discussion ensued, but finally the amendment was put and lost.

12th April, 1859. (*Parliamentary Debates. Colonist.*)

Money app-  
ropriation  
Respect due  
to Speaker's  
Decisions.  
Irregular  
Motions

No. 53.—An amendment (not being for an Address,) proposing a different appropriation of funds to that recommended by His Excellency, ruled out of order.

Member called to order for characterizing the *Speaker's* decision as *arbitrary*.

Two consecutive motions of adjournment of the House, out of order. Amendment, having no affinity to the main motion, is irregular.

The *Hon. Geo. Et. Cartier* having moved the reading of certain resolutions agreed to in Committee of the Whole, respecting the Seigniorial Tenure, an amendment was moved by *O. R. Gowan, Esq.*, pro-

posing to apply the Lower Canada Municipal Loan Fund to relieve the *Censitaires* from the burden of the feudal rights, which amendment was ruled out of order by *Mr. Speaker*, who said:—"It was not allowable to propose a different appropriation of the funds to that recommended by His Excellency for the consideration of the House." This decision having been characterised as arbitrary by *Mr. Gowan*, the *Speaker* thus explained the grounds of his ruling:—"The amendment was contrary to the Union Act, not having the recommendation of His Excellency." As *Mr. Gowan* persisted in declaring this decision to be arbitrary, the *Speaker* said:—"I call the Hon. gentleman to order. If he repeats the language he has just used, I shall have his words taken down. He ought to have appealed from my decision instead of pronouncing it arbitrary." A motion of adjournment was then moved by *Mr. Gowan*, after a similar motion had been proposed and negatived. This second motion was declared out of order by *Mr. Speaker*, who said:—"There could not be two consecutive motions of adjournment." *Mr. Gowan* then proposed another amendment, as follows:—"That whatever sum it may be desirable to give to the Eastern Townships of Lower Canada, in proportion to their population, as compared with the whole people of Lower Canada, at the census of 1861, shall be deducted from the equal amount to be granted under the preceding resolutions to that part of the Province, and also that there be deducted from the said sum the amount already granted from the Municipal Loan Fund to this portion of the Province, so that the whole amount to be granted to Lower Canada may be equal to and not exceed the amount

“granted to Upper Canada.” This amendment was ruled out of order by *Mr. Speaker*, who said:—“He did not see the same objection to this amendment as to the last one; but it bore no affinity to the main resolutions, and so, was opposed to a well known parliamentary rule.” The amendment was then withdrawn.

14th April, 1859. (*Parliamentary Debates. Colonist.*)

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Money appro- No. 54.—Motion to change the destination or increase the amount of a  
 priations, money appropriation recommended by His Excellency,  
 declared out of order.

On motion for the third reading of the Bill respecting the Seigniorial Tenure, an amendment to the 6th clause was proposed by the *Hon. A. A. Dorion*, as follows:—“That the *Governor General* be empowered from time to time to raise money by debentures, bearing interest, at 5 per cent., of sufficient amount to pay the capital of the *rentes constituées* due to the *Seigneurs*.” A point of order was raised by the *Hon. J. A. Macdonald*, who said:—“That under the Constitutional Act, the amendment was not in order. It was opposed to the recommendations of His Excellency the *Governor General*, as embodied in the resolutions which were submitted to the House and passed.” After a short debate on the point of order, the *Speaker* said:—“The House could neither change the destination nor increase the amount of the vote. He experienced a difficulty in determining the point raised by the *Hon. J. A. Macdonald*, as it involved a question of fact—namely, whether the amendment increased the charge upon the people? Believing it did, he must pronounce it out of order.”

Another amendment was then proposed by *O. R. Gowan, Esq.*, to re-commit the Bill for the purpose of providing:—"That whatever amount, if any, may accrue to Upper Canada, under the said bill, be not divided among the several municipalities, but be reserved for a school fund, for the education of the people of Upper Canada." This amendment was ruled out of order by *Mr. Speaker*, who said:—"This would be a different destination of the money recommended by the Crown."

21st April, 1859. (*Parliamentary Debates. Colonist.*)

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No. 55.—Member called to order for speaking disrespectfully of the Governor General. Respect due to Governor General.

While the address in answer to the speech from the Throne was being debated, a member having made, in the course of his remarks on the future visit of His Royal Highness the Prince of Wales, disrespectful allusions to His Excellency the Governor General, he was called to order by *Mr. Speaker*, who said:—"I must again call the Hon. gentleman to order, and I do so because he is infringing the 15th rule of this House. I will read the rule to the Hon. gentleman. It is: *That no member shall speak disrespectfully of the Queen or any of the Royal Family, or any person administering the Government of this Province.*"

29th February, 1860 (*Thompson's Mirror of Parliament, No. 1, p. 13.*)

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No. 56.—On a motion to pass over the notices of motion and consider Orders of the day the first order of the day, an amendment to discharge the day said order of the day, is out of order.

A motion having been made by the *Hon. Geo. E.*

*Cartier*, to pass over the notices of motion and proceed with the orders of the day, of which the first was the consideration of the *Hon. Geo. Brown's* resolutions respecting the Constitutional relations of Upper and Lower Canada, an amendment was proposed by the *Hon. M. H. Foley*, to discharge the first order of the day and make it the first order for Monday next. The *Speaker* said:—"The motion is "out of order, unless the previous motion be withdrawn."

23<sup>d</sup> April, 1860. (*Thompson's Mirror of Parliament*, No. 31, p. 4.)

Right of Reply.

No. 57.—A member moving an amendment to the order of the day, has not the right of reply

The order of the day to consider the *Hon. Geo. Brown's* resolutions respecting the constitutional relations between Upper and Lower Canada, having been called, an amendment was proposed by the *Hon. M. H. Foley*:—"That the said order be discharged and that it be the first order of the day, on Monday next." A discussion ensued, in the course of which the mover claimed the privilege of replying, but the *Speaker* declared:—"That the motion of the Hon. gentleman was in amendment to the order of the day, and consequently he had not the right of reply." But on motion of the *Hon. A. A. Dorion*, he was permitted to reply.

23<sup>d</sup> April, 1860 (*Thompson's Mirror of Parliament*, No. 31, p. 6)

Election Committee. No. 58.—Report of an election committee, although drawn up in an unusual form, may be received.

The Quebec Election committee having been un-

able to sit for several consecutive days, owing to the absence of some of its members at the hour appointed for the meeting of the committee, a report was made to the House, giving the names of the members *present*, instead of those *absent*, on such days. The *Hon. L. V. Scottle* asked whether the report was in order, as it was not drawn up in the usual form? After a short debate the *Speaker* ruled:—"That the report might be received, although it was not in the usual form."

10th April, 1860 (*Thompson's Mirror of Parliament*,  
No. 25. p. 1.)

No. 59.—No comment to be made on an enquiry of Ministers

Enquiry of  
Ministers.

An enquiry of Ministers having been made by *John Cameron, Esq.* respecting the construction of new locks at Lindsay, he was proceeding to address the House respecting the matter of his enquiry, when the *Speaker* informed him "That he could not comment on an enquiry, and that if he wished to make any remarks, he must change his (enquiry into a) motion."

11th April, 1860. (*Thompson's Mirror of Parliament*,  
No. 25, p. 3.)

No. 60.—Bill proposing to create funds by general taxation must originate in Committee of the Whole

*Adam Wilson, Esq.*, having moved the second reading of a Bill, respecting the police force in cities and towns, which proposed to create funds by general taxation, the *Speaker* was asked whether it was

in order? He replied:—That if any portion of the funds were to be raised by taxation upon the whole people, the Bill must originate in committee of the whole. If the taxation were purely local, this course was unnecessary. The Bill was then so amended as to make it purely local, and it was read a second time

28th March, 1860. (*Thompson's Mirror of Parliament*, No. 23, p 2)

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Motion for  
conference  
with the Up-  
per House

No 61.—The object of a motion for a conference with the Upper House, must be stated in the motion

*H. L. Langevin, Esq*, called the attention of the House to the fact that a Bill entitled:—“An Act to incorporate the Canada Central Railroad Company, and for other purposes,” had been passed by the House and sent to the Legislative Council for concurrence, and moved “That a message be sent to the Legislative Council, asking for a conference on matters concerning a Privilege of Parliament, and communicating a statement of the circumstances under which this Bill had been passed by the House.” After discussion, the *Speaker* suggested “That the motion be amended so that the object of desiring a conference with the Upper House should be stated” The motion having been altered, it was then put and carried

4th May, 1860 (*Thompson's Mirror of Parliament*, No. 39, p 4)

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Amendments

No 62.—An amendment already negatived, may be put a second time if it contains additional particulars

A Bill granting a subsidy to the Canadian Ocean



Steamers, having passed through Committee of the Whole, it was moved: "That the report be received." Several amendments were then proposed and rejected, but one proposed by *Wm. Macdougall, Esq.*, gave rise to a point of order, on the ground: "That a similar one had been already rejected at a previous stage of the question." After discussion, Mr *Speaker* ruled:—"That the motion though similar in part to the amendment already negatived, contained several additional particulars, and therefore might be put."

16th March, 1860. (*Thompson's Mirror of Parliament*, No 12, pp 8-11)

No. 63.—But one amendment to a motion for going into Committee of Amendments Supply can be made, although the amendment itself may on going into Supply be amended.

The *Hon. A. T. Galt* having moved the House into Committee of Supply, an amendment was proposed by the *Hon. Geo. Brown*, and after debate, an amendment to the amendment was proposed by the *Hon. L. T. Drummond*. *C Dunkin, Esq.*, raised the point of order and asked whether an amendment could be moved to the amendment to the motion for the House in Committee of Supply? The *Speaker* answered thus:—"The point is very clear There could be only one amendment to the motion for going into Committee of Supply. The motion of the *Hon L T. Drummond* was simply to amend the amendment, and consequently as it was not a substantive motion, he must rule it to be in order."\*

27th April, 1860. (*Thompson's Mirror of Parliament*, No. 34, pp. 2-4.)

\* By reference to No 122, it will be found that this point was again raised in 1861, when a contrary conclusion, and one more in accordance with British Parliamentary practice, was arrived at. See also *ante* No 32

Right of Reply. **No. 64.**—The mover of an amendment to a motion for the House in Committee of Supply, has not the right of reply

The *Hon A. T. Galt* having moved the House into Committee of Supply, an amendment was proposed by the *Hon. Geo Brown* who spoke at some length in support of his motion and was followed by the *Hon A. T Galt*. The *Hon. Geo Brown* then rose to reply, but was prevented from doing so by Mr *Speaker* who read the rule.—“When a member moves an amendment to a motion for the House in Committee of Supply, he is not entitled to a reply”

11th May, 1860 (*Thompson's Mirror of Parliament*,  
No 42, pp 3, 4)

Previous question **No 65**—Previous question moved upon a motion for the second reading of a Bill, although unusual, is in order

*Jos Dufresne, Esq*, having moved the *Previous question* upon a motion for the second reading of the *Hon Jos Cauchon's* Bill to establish the rate of interest, it was asked by the *Hon. L. V Sicotte*, whether the *previous question* could be moved at this stage of a Bill? The *Speaker* said —“It was very unusual, but it was in order” The *previous question* was afterwards withdrawn

15th March, 1860. (*Thompson's Mirror of Parliament*,  
No 11, p 7)

Reading of Entries in the Journals

**No. 66.**—An entry in the Journals having been read, a notice is required before moving the adoption of a resolution thereupon

On motion of *John Holmes, Esq*, the Journal of the House for the 14th May, 1860, in so far as it related to a report of a select committee, on the desirability of erecting a harbour of refuge on Lake

Huron, was read. The same gentleman then moved that the said report be adopted. Mr. *Speaker* said: "The Hon. gentleman ought to have given notice of his motion, the House was taken by surprise." The motion was then withdrawn

3rd April, 1861. (*Parliamentary Debates*, p. 21.)

No. 67.—A motion for an instruction to a committee of the whole should be definitely worded

Instruction to a committee of the whole.

The Hon. *Sidney Smith*, having moved the third reading of a Bill respecting juries in Upper Canada, an amendment was moved by the Hon. *M. H. Foley*, as follows: "That the Bill be referred back to committee of the whole, with instructions to amend the same by embodying therein the amendments prayed for in the petition of the Municipal Council of the County of Middlesex." This amendment was ruled out of order by Mr. *Speaker*, because:—"It did not set forth specifically, the instructions to the committee." It was then altered and a vote taken upon it.

8th May, 1861 (*Parliamentary Debates*, p. 97)

No. 68.—Member called to order for speaking beside the question

Member called to order

The Hon. *J. A. Macdonald* having entered into explanations in connection with charges made against him by certain newspapers in relation to sales of land in Sarnia, a debate arose thereon, during which the Hon. *Jos. Cauchon* referred to accusations affecting the Hon. *Geo. Brown*. Mr. *Speaker* interposed and said:—"That he could not, under the present motion, branch off into any other subject than that relating to the Hon. *J. A. Macdonald's* explanations." 17th May, 1861. (*Parliamentary Debates*, pp 113-116.)

Newspaper  
libel.

No. 69.—A motion to resolve that a certain newspaper article is a false and scandalous libel, is in order.

The Toronto "Globe" newspaper having, on the 2nd day of April, 1861, published an article headed:—"The member for Welland," in which that gentleman was accused of having "sold his office of Collector of Customs, when he went into Parliament" and of being "a seeker of jobs," a motion was made by *Gilbert McMicken Esq.*, member for Welland, to resolve, "That the said paragraph was a false and scandalous libel." The *Hon. A. A. Dorion* asked whether the motion was in order? The *Speaker* answered: "That it was quite competent for the House to declare that the article was a reflection on any of its members, or on itself. Precedents are numerous, and the House has imprisoned and even expelled the writers of articles." After a long debate the motion was withdrawn.

4th April, 1861. (*Parliamentary Debates*, p. 28.)

Resolutions  
for an as-  
sessment on  
a private cor-  
poration

No. 70.—Resolutions imposing an assessment on a private corporation need not be preceded by petition.

The *Hon. A. A. Dorion* having moved the House into committee to consider of certain resolutions respecting the publication of the Lower Canada Law Reports, objection was taken by the *Hon. Geo. E. Cartier* that "such resolutions, imposing an assessment on a private corporation, ought to be brought before the House by petition, and there must be a notice of forty days" After a short debate Mr. *Speaker* ruled: "That the said objection applied to a Bill, not to resolutions or motions for a committee." The motion was then allowed to pass.

2nd April, 1861. (*Parliamentary Debates*, p. 19)

No. 71.—No remarks can be made, by a Member, in presenting a petition. Petitions.

The *Hon. M. H. Foley* having presented a petition praying for relief for the widow of one *Adams*, a mail carrier, was proceeding to address the House thereon, when *Mr. Speaker* called him to order and said:—"No remarks can be made on the presentation of a petition,"

2nd April, 1861. (*Parliamentary debates*, p. 18.)

No. 72.—Member asking leave to move an Address, in the absence of the Member who had given notice of it, was refused, because he had received no authority from the said Member. Right to make motions.

In the absence of *Wm. McDougall Esq.*, who had given notice of an Address to His Excellency respecting arrears of salary paid to *Gilbert McMicken Esq.*, the latter gentleman begged to be allowed to make the motion himself. *Mr. Speaker* asked:—"Has the *Hon. gentleman* authority to do so?" *Mr. McMicken* replied: he had not, but wished to see it moved. The *Speaker* then said:—"The motion must be dropped."\*

13th May, 1861 (*Parliamentary Debates*, p 105)

No. 73.—A matter peculiarly affecting the employees of the Legislative Assembly ought not to be referred to a Joint Committee of the House. Privileges of both Houses

*Geo. Benjamin, Esq.*, having moved to refer the petitions of certain employees of the Legislative Assembly, complaining of an attack on their integ-

\*By reference to No 114, it will be found that this subject was fully discussed and that it was generally admitted that any member had a right to move a measure in the absence of the Member who had charge of it, provided that such measure was a public one

rity by the contractors for the Legislative printing ; and of *Messrs. Thompson*, complaining of the conduct of the employees,—to the Joint committee of both Houses on Printing, the *Speaker* said :—“ He thought “ it would be opposed to the privileges of this House “ to refer a matter peculiarly relating to its own “ employees, to a committee composed of members “ of both Houses.” The motion was accordingly withdrawn

11th April, 1861 (*Parliamentary Debates*, p 36.)

Petition for compensation

**No. 74.**—Motion for a select committee on a petition for pecuniary compensation is out of order, if the government declares that it will not be bound by the reference.

*John B. Robinson, Esq.*, having moved for a select committee to examine and report on the petition of *Dr. Wm. Rees* for compensation for injuries, the *Hon John A. MacDonald* said :—That the Government would not oppose the nomination of the committee, but would not consider itself bound, in any manner, by a reference to the committee.” The *Speaker* then ruled the motion out of order

12th April, 1861 (*Parliamentary Debates*, p. 38)

Privileged motions

**No. 75.**—Motion may be made without notice, on a question of Privilege

*J M. Ferres, Esq.*, having moved to resolve :—“ That from an examination of the poll-book for the “ municipality of the township of Granby, used at “ the late election for the County of Shefford, it “ appears that gross irregularities have occurred in “ connection with the entries in the said poll-book, “ in violation of the freedom of elections and in

“breach of the privileges of this House.” The *Hon L. V. Sicotte*, asked whether the motion could be entertained, as no notice had been given? Mr. *Speaker* ruled:—“That the motion was in order, as it related to the privileges of Parliament.” After discussion the motion was withdrawn, to be amended.

18th March, 1861, (*Parliamentary debates*, p. 3.)

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**No. 76.**—Amendments to questions of concurrence in Supply Resolutions must have an affinity with the main motion. An address to the Crown cannot be moved at this stage. Amendments to Supply Resolutions.

On a motion to concur in a resolution reported from the Committee of Supply, an amendment was moved, by *Thos. R. Fergusson, Esq.*, to provide:—“That all grants made to any sectarian institution be reduced ten per cent.” Mr. *Speaker* said:—“That the amendment was out of order, as no grants of the kind referred to were contained in the resolution now under discussion, (which was to provide for certain expenses of the administration of Justice in Lower Canada.) The amendment could be moved when the Supply Bill was before the House.” Upon another resolution, granting one hundred thousand dollars for Colonization Roads, an amendment was proposed by *E. U. Piché, Esq.*, for an address to the Governor, in favour of a free grant of one hundred acres of land to be given to each *bona fide* settler on these roads. Mr. *Speaker* ruled that “the motion was out of order. *First*, because there was no mention of free grants in the resolution, and, *Second*, because it was not proper to move an address to the Crown in amendment to items of supply.”

8th May, 1861. (*Parliamentary Debates*, pp. 98, 99.)

**Amendments to Supply Bill.** **No. 77.**—Motion for an enquiry into an alleged abuse, as an amendment to the second reading of the Supply Bill, ruled out of order.

The *Hon. A T Galt* having moved the second reading of the Supply Bill, an amendment was moved by *H. F Mackenzie, Esq*, to refuse the granting of a supply until a committee of the House should have enquired into certain charges made against the *Hon J. A. Macdonald* and others, respecting the purchase of certain lands at Sarnia. Mr *Speaker* ruled. "That this was a substantive motion, which had no connection with the Supply Bill, and was therefore out of order"

15th May, 1861. (*Parliamentary debates*, p 110.)

**Precedence of Amendments.** **No. 78.**—Motion for the six months hoist, on the third reading of a Bill cannot be moved until an amendment previously moved has been disposed of

On motion for the third reading of a Bill on Usury, an amendment was proposed, by the *Hon J. E. Thibaudeau*, which was itself amended on motion of the *Hon O. Mowat*. At this stage, a motion for the six months' hoist was moved by *Ogle R Gowan, Esq* But Mr *Speaker* said.—"Such a motion was not at present in order, as the question was now upon Mr. *Thibaudeau's* amendment, as amended, and not upon the passage of the Bill."

10th May, 1861, (*Parliamentary debates*, p. 102.)

**Naming a Member.**

**No. 79.**—A Member called to order and named by the Speaker

The *Hon. A. T. Galt*, having moved the House into committee of ways and means, an amendment was proposed by the *Hon. J. E. Thibaudeau*, after



which, *E. U. Piché, Esq*, moved the adjournment of the House. This being negatived, *Mr. Piché* nevertheless, continued to speak on the adjournment, and being called to order by *Mr. Speaker*, he refused to obey. The Speaker then named *Mr. Piché*, ordered the clerk to take down his name and informed that Hon. Member:—"that he must withdraw, but " he might first offer an explanation to the House of " his disorderly conduct, if he thought fit " Whereupon *Mr. Piché* gave his explanations to the House and withdrew. The *Speaker* then said:—"That " as it had been his painful and unpleasant duty to " name an Hon. Member, for disturbing the debate " by disorderly interruptions, it was for the " House to determine whether it was satisfied with " the Hon gentleman's explanations, or whether it " would censure him " The *Hon Geo Et. Cartier*, then moved—"That the explanations of the Hon, " Member for Berthier be deemed sufficient and " that they be accepted," which was agreed to.

8th May, 1861. (*Journal*, p. 270)

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**No. 80.**—Amendments to resolutions of committee of ways and means, Amendments to Resolutions of Ways and Means.  
must have some affinity with the resolutions

The *Hon A. T. Galt* having moved the concurrence of the House to certain resolutions reported from the Committee of Ways and Means, *J B. E. Dorion, Esq.*, moved an amendment respecting the connexion between the Grand Trunk Railway Company and the Government. This amendment was ruled out of order by *Mr Speaker*, who said: "The same latitude of debate could not be allowed

"in receiving the report of the Committee as in going into Committee. This resolution had no affinity with the resolution before the chair, and he thought it was out of order.' The *Hon. A. A. Dorian* then moved another amendment, respecting deposits of public moneys made by the Government in the Bank of Upper Canada. Mr. *Speaker* ruled this amendment out of order, as not relating to the resolution. The *Hon. L. V. Sicotte* then moved a third amendmet, respecting the revenue and expenditure of the Province, which was also declared out of order. This decision was appealed from, but the appeal was not pressed to a division.

14th May, 1861. [*Parliamentary debates*, p. 108.]

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### DECISIONS OF MR. SPEAKER TURCOTTE.

Order in De-  
bate.

No. 81.—Debate on main question may be continued notwithstanding a motion of adjournment is pending.

During a debate upon the policy of the administration of the *Hon. J. S. Macdonald* and the *Hon. L. V. Sicotte*, a motion of adjournment was moved by the *Hon. M. B. Portman*. The discussion on the main question still proceeded, and it was asked by *James O'Halloran, Esq.*, whether such discussion was in order, Mr. *Speaker* replied:—"That he thought the discussion perfectly in order."

26th May, 1862. (*Parliamentary debates*, p.122.)

Money Appro-  
priation

No. 82.—A money appropriation must be initiated by the Governor General.

*J. O. Bureau, Esq.*, having moved an Address to His Excellency the Governor General, praying that

out of the revenue arising from the sale of Crown lands and from timber licenses, a permanent annual sum of three hundred thousand dollars be set apart for the purpose of promoting the colonization of the wild lands of the Crown, by the construction of roads and bridges &c.; Mr. Speaker said: "This being a request for money it could not be introduced without the consent of the Governor-General."

8th April, 1862. (*Parliamentary debates*, p. 33.)

No. 83.—Motion to postpone the examination of a witness at the Bar of the House until the next Session, ruled out of order. Orders Expire with the Session

A returning officer, *Mr. P. Roblin, Esq.*, was summoned to appear at the bar of the House, in reference to his return for the County of Lennox and Addington, and being in attendance, a motion was made by *Wm. Patrick, Esq.*, to postpone the examination till the next session. *Mr. Speaker* said: "The motion is out of order, inasmuch as this session cannot bind the next session."

28th May, 1862. (*Parliamentary debates*, p. 128.)

No. 84.—A new writ of election may be issued when the Member accepts an office of emolument under the Crown, notwithstanding that the seat is contested. New election on member accepting office.

*W. F. Powell, Esq.*, having moved for a new writ of election for the county of Perth, in the room of the *Hon. M. H. Foley*, who, since his election, had accepted an office of emolument under the crown, it was asked by *John White, Esq.*, whether the motion was in order, as the seat was contested? The *Speaker* said:—"This is a matter of privilege, and the motion is in order."

31st May, 1862. (*Parliamentary debates*, p. 134.)

Motion to adjourn No. 85.—Adjournment of the house cannot be moved while a Member is speaking

While the *Hon. Jos Cauchon* was speaking on a motion for a committee of enquiry in relation to the public buildings at Ottawa, a motion of adjournment was moved by the *Hon. J. S. Macdonald*. Mr. *Speaker* said:—"The House could not adjourn, while a member was speaking, unless he gave way."  
13th May, 1862. (*Parliamentary debates*, p. 98.)

Amendments to the address. No. 86.—Form of proposed Amendments to the Address, in answer to the speech from the Throne

During the debate upon the Address in answer to the speech from the Throne, an amendment was proposed by the *Hon. L. V. Sicotte*, as follows:—"That the principle of equal representation was the basis of the compact upon which the Union between Upper and Lower Canada was formed, and is essential to the maintenance of the Union as it now exists, inasmuch as it affords a guarantee to secure to each section of United Canada, the enjoyment of laws and institutions congenial to its wishes, and suitable to the requirements of its inhabitants" This amendment was ruled out of order by Mr. *Speaker*. The *Hon.* mover then amended his motion so as to read as follows:—"That we consider it, under the present circumstances, proper to state to your Excellency, as the opinion of this House &c." A discussion ensued upon the motion so amended; but Mr. *Speaker* interposed and said:—He could not put the amendment in its present shape; if it came up in a shape like this: *That this House regrets that his Excellency has not in his Speech affirmed a certain principle*—then he would

put it to the House. In its present form, it had no relation to the speech, and in declaring that it could therefore not be put, he was following the English practice. After a short debate on this decision, the *Speaker* said:—That although he had thought there should be something to link the amendment to the Address, yet as he found the sense of the House to be that the amendment was not absolutely out of order, he would waive his objection.\*

27th March, 1862. (*Parliamentary debates*, pp. 9, 10.)

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No. 87.—The initiative of a money appropriation rests exclusively with the Government. Money appropriations.

*J. O. Bureau, Esq.*, having moved the House into Committee, to consider of resolutions for an increased appropriation for Roads and Bridges on the wild lands of the Crown, the *Speaker* said:—That in his opinion the motion was out of order, but he would like to have the opinion of the Hon. member for Cornwall and other experienced members of the House, on the subject, before he decided against it. After a long discussion on the point, Mr. *Speaker* ruled the motion out of order, in the following words:—“Having heard the opinions of the House, he must decide that whatever might be the practice in the House of Commons, where there was no invariable rule on such points, we were bound by our Constitutional Act. That Act deprived private Members of the House, both directly and indirectly, from initiating money votes. Such motion therefore, as was now before the House, was an evasion

\* See also No. 154

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“ of the law. A private member had no right to  
 “ bring it in, and as long as he sat in that chair,  
 “ he must oppose that and all other attempts at  
 “ legislation in the same direction ”

7th May, 1862. (*Journal*, p. 175.)

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Amendments. No. 88.—An Amendment similar to one already voted upon, cannot be moved a second time

*R. W. Scott, Esq.*, having moved the third reading of a Bill respecting the incorporation of the Sisters of St. Joseph of Guelph, an amendment was proposed by *John White, Esq.*, to refer back the bill to a committee of the whole, with instruction:—“to amend the same so as to limit the period within which the corporation might hold real estate, from ten to five years, and to declare that no bequest to the Corporation should be valid unless made, at least, six months before the death of the testator.” This amendment was negatived. Then another amendment was moved by *A. McKellar, Esq.*, to amend the bill by inserting the word *five* in the 29th line, instead of the word *ten*, respecting real estate. The *Speaker* ruled:—“The amendment is out of order—the question having been previously voted upon.”

30th May, 1862. (*Parliamentary debates*, p. 132.)

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Precedence of Orders. No. 89.—Motion to take up a Bill placed at the bottom of the Orders of the Day, before Notices of motions had been called, ruled out of order.

*R. W. Scott Esq.*, having moved, at the beginning of the sitting of the House, to take up his Bill on

Separate schools in Upper Canada, which stood at the bottom of the list of the Orders of the Day, a discussion arose thereon. It was asked by *Thos. R. Ferguson, Esq.*, whether the motion was in order, as he believed it should have been made only when the notices should have been called? The *Speaker* said:—"The motion was not strictly in order, and it was accordingly ruled out."

3rd June, 1862. (*Parliamentary debates*, p. 140.)

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**No. 90.**—After the second reading of a Bill, by consent of the House, it Procedure on Bills.  
is too late to take objection thereto.

The second reading of a Bill respecting Tavern licenses, having been moved by the *Hon. A. T. Galt* immediately after its first reading, and no objection being offered, the bill was read a second time. Afterwards, the *Hon. M. H. Foley* rose to object. The *Speaker* said: "The Bill had been read a second time, no member objecting at the moment the question was put."

25th April, 1862. (*Parliamentary debates*, p. 37.)

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**No. 91.**—Petition with no names appended to the sheet on which the Petitions,  
petition was written, cannot be received.

On the question for receiving petitions presented by the Attorney General West, praying for the division of the county of Waterloo, for registration purposes—The *Speaker* drew the attention of the House to the fact:—"That none of the names appended to the petition were attached to the sheet on which the petition was written, in accordance with the practice of the House." The *Hon. M. H.*

*Foley* then said:—"He had been informed, on good authority, that many of the names attached to these petitions were written on sheets which had been taken from other petitions, and appended to the petitions now before the House." The petitions were then withdrawn by the Hon. Attorney General West, who said:—"He would return them to the parties from whom he had received them, and would make an enquiry into the complaint of the Hon. member for Waterloo. If what had been stated was correct, the parties getting up these petitions had subjected themselves to a very serious charge."

8th May, 1862. (*Parliamentary Debates*, p. 81.)

Precedence of Motions.

No. 92.—Motion to discharge a member from further attendance on an Election Committee cannot be moved before its turn, on the ground of its being a question of privilege.

The *Hon. L. T. Drummond*, having moved that the *Hon. A. T. Galt* be discharged from any further attendance on the Committee appointed to try and determine the merits of a contested election for the South Riding of Leeds, an objection was raised to the motion by the *Hon. J. H. Cameron*, "That it could only come up in its proper order—that it could not take precedence over all other orders of the day." The *Hon. L. T. Drummond* replied: "That, as a matter of privilege, he had a right to make his motion immediately after the reports of Committees." The *Speaker* said:—"That this was not the case with all questions of privilege, and that the motion to take precedence would require notice." The subject then dropped.

23rd February, 1863. (*Parliamentary Debates*, pp. 24, 25.)



**No. 93.**—Motion to give instructions to a committee before it is struck Committal of Bills. declared out of order.

Member declaring himself opposed to the principle of a Bill cannot form part of a committee to which such Bill is to be referred.

*F. Bourassa, Esq.*, having moved to refer a Bill respecting Usury to a select committee, the *Hon. John Rose* moved, in amendment, to give instructions to the said committee to enquire into the working of the existing law, and report the evidence thereon to the House. A question of order arose as to whether instructions could be given to a committee which was not yet named, and might not be named? The *Speaker* said:—"The motion in amendment is out of order." The Committee was then named by the "House."

The *Hon. J. H. Cameron*, having been proposed as one of the said committee, the *Speaker* said:—"The Hon. gentleman having declared himself opposed to the principle of the Bill, he could not serve upon the committee."

3rd March, 1863. (*Parliamentary Debates*, pp. 55, 56.)

**No. 94.**—Second reading of a Bill postponed because it was not printed Procedure on Bills. in both languages.

*L. Burwell, Esq.*, having moved the second reading of a Bill respecting the election of Justices of the Peace in Upper Canada, a point of order was raised whether the measure could be proceeded with, although it had not been printed in both languages. The *Speaker* decided:—"That if the House objected it could not be proceeded with." In consequence the Bill was deferred.

5th March, 1863. (*Parliamentary Debates*, p. 63.)

Procedure on  
special reports  
from Election  
Committees.

**No. 95.**—Proceedings in the case of a member of the House arrested and placed in the custody of the Sergeant-at-Arms, by order of an Election Committee, for refusing to answer (as a witness) a question put to him by the committee. Motions in relation thereto should emanate from the committee, but should be sufficiently explicit for the House to understand the merits of the case.

*H. L. Langevin, Esq.*, from the Vercheres election committee, reported: That at the meeting of that committee held on Saturday last, *A. E. Kierzkowski, Esq.*, after having been sworn, as a witness before that committee, and having been partially examined, refused to answer a question put to him, whereupon in accordance with the law, the said member had been arrested and placed in the custody of the Sergeant-at-Arms, by order of the committee. After much discussion as to what mode the House should adopt in relation to the question at issue, the *Hon. J. H. Cameron*, moved:—"That *A. E. Kierzkowski, Esq.*, Member for the County of Vercheres, be brought to the bar of this House forthwith, and being informed by Mr. *Speaker* that the select committee to try the contested election for the county of Vercheres, alone has the power of deciding upon the right of any person before them, as a witness, to answer or refuse to answer any question,—that he be discharged from the custody of the Sergeant-at-Arms." The *Speaker* expressed his opinion that any motion of this nature had better come from the chairman or some member of the committee. In accordance with this suggestion, *H. L. Langevin, Esq.*, undertook to move the motion aforesaid and the debate thereon was adjourned, to the next Wednesday.

On the day appointed to resume the debate, *H. L. Langevin, Esq.*, having moved his resolution, the *Hon. A. A. Dorion* moved in amendment:—"That

“this House cannot interpose its authority, nor censure the sitting member for the county of Vercheres, without first being informed of the grounds assigned by him for refusing to answer the questions submitted by the Committee.” The question of order was raised on the ground—that the amendment was opposed to law, and that the House had no right whatever to force the committee to report. Moreover the witness was not properly designated—the committee had to do with him as a witness, not as the sitting member.” The *Speaker* replied:—“He was of opinion that, since this was a matter respecting which the House could inflict a punishment, it was right it should know the merits. This however did not amount to calling on the committee to report. He was therefore of opinion that the amendment was in order.” Whereupon the amendment was agreed to on a division.

9th and 11th March, 1863. (*Parliamentary Debates*, pp. 68, 69, 71.)

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No. 96.—Bill read a second time, notwithstanding an objection that it had not been printed in both languages. Procedure on Bills.

*Hon. J. S. Macdonald* having moved the second reading of a Bill for the amendment of the law in relation to Grammar Schools in Upper Canada, *T. R. Ferguson, Esq.*, said: “The bill was not printed in French, and he would object to its being read a second time.” The *Speaker* held:—“That the objection was not in order, under the circumstances.” The Bill was then read a second time.

17th March, 1863. (*Parliamentary Debates*, p. 93.)

Notice of  
Private Bills.

**No. 97.**—The public notice required before the introduction of private Bills, may be dispensed with if the Committee on Standing Orders report in favour of the same.

The Committee on Standing Orders having made a report in favour of dispensing with the notices required by the rules of the House, in the case of the Hamilton city debt bill, *Isaac Buchanan, Esq.*, introduced the Bill, and a discussion arising the *Speaker* stated:—"That the usual practice was to allow Bills to be introduced, if the Committee on Standing Orders reported in favour of dispensing with the notice." After a short debate, the bill was withdrawn.

17th March, 1863. (*Parliamentary Debates, p. 92.*)

Printing in  
French

**No. 98.**—Consideration of the report of a Committee, postponed because it had not been printed in French.

The adoption of the report of a Committee, respecting the employées of the House, having been moved by *John Simpson, Esq.*, an objection was raised by *H. L. Langevin, Esq.*, that the report was not printed in French, and distributed to members, in that language. After a considerable discussion on the subject, the *Speaker* was understood to declare:—"That the report could not be considered at present, in consequence of the objection raised." The subject then dropped.

19th March, 1863. (*Parliamentary Debates, pp. 97, 98.*)

Motions.

**No. 99.**—The mover of a Resolution cannot be compelled to proceed with it, if he is not prepared

The order of the day for the consideration of the

*Hon. C. Alleyn's* resolution to censure the Administration "for not having advised His Excellency the Governor General to exercise the Royal prerogative of mercy in the case of Richard and Mary Aylward," having been called by the *Speaker*, the mover said:—"Stand." This delay was opposed by the *Hon. J. S. Macdonald*, in a long speech, when the mover raised a question of order in the following words:—"I contend that the premier has no right to go into the discussion of a question which I do not intend now to go on with." The *Speaker* said:—"The Hon. gentleman has a right to move in the matter. A long discussion then ensued, which resulted finally in the withdrawal of the resolution, notice being given by the mover that he would bring it before the House on a future day.

13th April, 1863. (*Parliamentary Debates*, p. 103.)

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No. 100.—On motion to refer a public Bill to a select committee, an amendment to refer it to a standing committee, is inadmissible. Reference of Bills to Committees.

*F. Z. Tassé, Esq.*, having moved that the Bill to amend the Act respecting the currency, be referred to a select committee, it was proposed to refer it instead, to the standing committee on Banks and Insurance. The *Speaker* ruled:—"That as the motion was for referring a public bill to a select committee it was not in order to move, by way of amendment, to refer it to a standing committee."

13th April, 1863. (*Parliamentary Debates*, p. 104.)

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No. 101.—An amendment which introduces a new principle into a bill Amendments, can be moved, provided notice has been given.

*H. L. Langevin, Esq.*, having moved the third read-

ing of a bill to prevent the execution in public of the sentence of death, an amendment was proposed by *P. G. Huot, Esq.*, for the re-committal of the bill, to insert a clause:—"That the penalty of death be abolished for political offences." *C. Dunkin Esq.*, rose to a point of order. The amendment, he contended, was foreign to the nature of the bill, and, therefore, inadmissible. The *Speaker* having ascertained that notice of the amendment had been given, declared that it was in order.

14th April, 1863 (*Parliamentary Debates*, p. 105).

Address for  
interpretation  
of Union Act.

**Nos. 102 & 103.**—Address to Her Majesty, to interpret a clause in the Imperial Act of Union, (1841,) ruled out of order. Address again moved and objected to, because it contained a preamble. This objection finally overruled.

*Mr. Decazes* having moved for an Address to the Queen, praying Her Majesty to interpret the 5th section of the Imperial Act 17th & 18th Vict. Ch. 118, which repeals the 5th clause in the Act of Union, requiring that any Bill to alter the representation in the Legislative Assembly, must be passed by a vote of two-thirds of the members of the said Assembly, the *Speaker* said:—The motion was not in order.

Four days afterwards *Mr. Decazes* again moved his Address to the Queen, respecting the interpretation of the Imperial Act aforesaid in a different shape. On this occasion (as appears by the notice to be found in the votes and proceedings of 16th April, 1863. p. 154,) he recited various propositions, by way of preamble to the Address. The *Hon. Geo. Brown* raised the question of order; and remarked that the motion contained a preamble. The *Speaker* said:—"That in his opinion, the motion could not be put in its present shape."

Subsequently, however, the *Speaker* was understood to say, that the fact of the motion containing a preamble did not render it out of order. Nevertheless, the Address was not proceeded with.

16th & 20th April, 1863. (*Parliamentary Debates*. pp. 114, 123.)

**No. 104.**—Bills affecting Trade, should originate, by resolution, in Committee of the Whole. Trade Bills.

*W. F. Powell, Esq.*, having moved the second reading of a Bill to regulate the culling and measurement of timber, a member of the Government, *Hon. L. V. Sicotte*, objected that "The Bill being one which related to the trade of the country, it ought to have originated by resolution, in a Committee of the Whole." The *Speaker* said:—"He was of opinion that the bill was one relating to trade." After a short discussion, the bill was withdrawn.

16th April, 1863. (*Parliamentary Debates*, p. 116.)

**No. 105.**—Question of Etiquette in relation to the posture of the *Speaker* in presenting an Address to the Governor. Form of presenting an Address.

In presenting to the Governor General the Address in answer to the speech from the Throne, at the opening of the first Session of 1863, a difference occurred between the Hon. the *Speaker* of the Legislative Council and His Excellency's secretary (*Denis Godley, Esq.*) as to the posture the *Speaker* should assume in presenting the Address.

The *Speaker* communicated to the House, certain documents he had received from *Mr. Denis Godley*,

on the subject of the Etiquette observed in presenting an Address to Her Majesty the Queen by the Speaker of the Commons. The papers having been read, he was asked, by the *Hon. L. V. Sicotte*, whether he intended to follow the formula pointed out in this communication? The *Speaker* replied:—"He could assure the House that "he would kneel to no one except his Sovereign." The matter then dropped, with the understanding that the documents would not be entered on the Journals of the House.

17th April, 1863. (*Parliamentary Debates*, p. 118.)

Procedure on Bills.

No. 106.—An amendment to affirm a resolution, instead of agreeing to the report of a Committee on a bill pending, declared out of order

On motion to concur in the report of Committee of the Whole, on a report from a Select Committee on *Mr. Bowassa's Usury Bill* an amendment was proposed by *L. S. Morin, Esq.*, to substitute a resolution: "That in a well understood public interest, "there is no occasion, at present, to modify the law "regulating the relations between borrower and "lender; that any change at this period of the year "—when transactions in the foreign market have, "for the most part, been completed on calculations "based upon the present state of things—would "have the effect of injuring the province, and ruin- "ing those who have thus contracted on the guarantee "of public good faith, as inscribed on our statute "book." Mr *Speaker* declared the motion out of order.

27th April, 1863. (*Parliamentary Debates*, p. 140.)



## DECISIONS BY MR. SPEAKER WALLBRIDGE.

**No. 107.**—No names to be recorded on the Journals, on a motion to Motions of adjournment.  
adjourn the House.

While a motion respecting the Essex election was under discussion, a motion to adjourn the House was made by the *Hon. J. H. Cameron*. This motion was first resisted by the Government, but after a short debate the *Hon. J. S. Macdonald* said:—"It would be better to take a vote on the question of adjournment, and if, on either side, there was a small majority only, it would be useless to prolong the debate to-night, and the Government would give way." The result of the division having been made known by the Clerk, an honorable member asked that the names should be taken down. The *Speaker* said:—"There was no rule on the subject, further than that the names were not to be recorded on the Journals."

19th August, 1863. (*Parliamentary Debates*, p. 19.)

**No. 108.**—Member called to order, for not addressing himself to the Order in de-  
chair, and for crossing from one side of the House to the bate.  
other, while speaking.

While a Member was speaking on a Bill to amend the Assessment Act of Upper Canada, the *Speaker* called the Hon. gentleman to order, for having crossed to the opposite side of the House, and persisted in speaking without addressing the chair.

14th September, 1863. (*Parliamentary Debates*, p. 97.)

**No. 109.**—Second reading of a public Bill may be moved by any mem-  
ber in the absence of the member in charge of the same. Procedure on Bills.

The order of the day for the second reading of the Bill to provide for the appointment of commissioners

to enquire into the affairs of the St. Rochs' Savings Bank, having been called, in the absence of the member who had charge of the measure, *A. H. Paquet, Esq.*, moved the second reading of the Bill; *H. L. Langevin, Esq.*, raised the objection that the Hon. member had no right to move in the matter, inasmuch as he had not been authorised to do so by the member in charge. A debate then ensued, during which it was generally admitted that any member had the right to move a measure in the absence of the member in charge of it, provided the Bill was a public one. The *Speaker* decided that the Bill was a public Bill, and it was accordingly put on the list of public Bills. The second reading was not however proceeded with.

21st September, 1863. (*Parliamentary Debates, p. 125.*)

Privileged motions.

No. 110.—A motion may be moved, without notice, to direct a Standing Committee to assemble.

*Robert Bell, Esq.*, having complained to the House that the Standing Committee on Railways and Telegraphs had not met for several days, and that it was not to sit for several days to come, he requested that the House should order the Committee to assemble. A debate ensued, and the *Hon. L. H. Holton* moved that:—"The next item should be called;" and he appealed to the Speaker to say whether it was in order to make a motion without previous notice. The *Speaker* said:—"The House could instruct a committee to meet, and it was not necessary that the member who desired the meeting, should give notice of a motion. The discussion, however, was irregular, as there was no motion before the chair." A motion was then

made, but finally it was withdrawn, and the matter dropped.

24th September, 1863. (*Parliamentary Debates*, p. 140.)

No. 111.—Motion for the appointment of a committee, once disposed of Questions once disposed of, not renewable.  
cannot be renewed during the same session.

On the 31st August, the *Hon. Geo. Brown* moved for a committee to enquire into the state of the public buildings at Ottawa. After debate thereon, the adjournment of the House was moved and carried. On the 28th September following, the *Hon. George Brown* moved to refer certain papers relating to the Ottawa public buildings to a committee. *W. F. Powell, Esq.*, rose to a question of order and asked:—“whether this was not substantially the same subject which was disposed of some evenings ago?” After debate, the *Speaker* said:—“He had no hesitation in stating that the motion was out of order. As to the quotation from May, by the *Hon. member* for South Oxford, while probably different persons might interpret it differently, in his opinion, it did not apply to the case before the House” \*

28th September, 1863. (*Parliamentary Debates*, p. 147.)

No. 112.—Supply. Motion to interfere with the distribution of public moneys already voted, must be recommended by the Crown. Consent of the Crown to distribution of grants.

During debate on the reading of the several items of the report of the Committee of Supply, the *Hon. J. H. Cameron* moved:—“That the grant of \$20,000

“ for superior education in Upper Canada be so divided as to give \$4,000 of the amount to Trinity College, Toronto.” The *Hon. L. H. Holton* thereupon raised the point of order. He maintained that it was not competent for the *Hon.* member to make any appropriation which was not recommended by the Crown. The House might strike out, but could not interfere with the distribution of moneys recommended by the Crown. The *Speaker* said:— “ He held that this appropriation came under the condition which required money grants to be initiated by the Crown, and he therefore ruled the motion out of order.”

29th September, 1863. (*Parliamentary debates*, p. 151.)

Election Committees.

No 113.—Motion that leave of absence be granted to a member serving on an election committee, does not require previous notice

*Wm. Notman, Esq.*, having moved that leave of absence be granted to the *Hon. Geo. Brown*, who was a member of the Hochelaga Election Committee, a question of order was raised by the *Hon. Geo. Et. Cartier*, who said.—“ It was imperatively necessary that in such cases, notice of the motion should be given beforehand.” The *Speaker* was understood to remark.—“ That there were two kinds of motions which did not require notice—those relating to Questions of Privilege, and those relating to matters suddenly arising. He was of opinion that the motion now before the House, belonged to the latter class. It was, therefore, in order, and no notice was required.” The *Hon. Geo. Et. Cartier* then raised another question of order, and said:—“ The *Hon. Geo. Brown* should

“give the reasons of his absence, and support them by an affidavit.” The *Speaker* decided:—“That the question raised was not one of order.”

12th October, 1863. (*Parliamentary Debates*, p. 209.)

No. 114.—Members in debate must speak to the question.

Order in debate.

While the *Hon. Thomas D'Arcy McGee* was speaking on the third reading of a Bill respecting the Militia, the mover of the Bill raised a question of order.—“He wanted to know if the *Hon. gentleman* was speaking to the question? The *Speaker* replied:—A wide latitude had been always allowed to Honorable members, because it was not always easy to see how they would make their remarks pertinent to the question. He would read to the *Hon. member* the rule on the subject, leaving it to himself to make the application.” The rule having been read, the debate was resumed. While the *Hon. M. H. Foley* was addressing the House, the *Speaker* called his attention to the fact that he was straying very far from the question. He (the *Speaker*) had waited a long time to see if the *Hon. gentleman* would make his remarks applicable to the question before the House, but he did not see that he was coming to the point.

13th Oct., 1863. (*Parliamentary Debates*, pp. 211-213.)

No. 115.—Motion moved without previous notice, ruled out of order. Irregular Motion for an Address to His Excellency, moved before motions. its turn had been reached on the notice paper, ruled out of order

*D. E. Price, Esq.*, having moved “for a copy of an Order in Council of the 14th March, 1863, by

“ which the Canadian Government ordered the  
“ payment of \$24,000 and interest, from 1857, to J.  
“ *D. Andrews, Esq.*, or his assigns, for certain  
“ expenses incurred by him in the carrying out of  
“ the Reciprocity Treaty between the United States  
“ and Canada, which amount, with interest, was  
“ brought down in the estimates of last session, but  
“ omitted in the present estimates before the House.”  
It was asked by *T. R. Ferguson, Esq.*, whether the  
motion was in order? The *Speaker* said:—“ It was  
“ not.” Notwithstanding this decision of the  
*Speaker*, the debate continued. Another appeal  
to the *Speaker* having been made, he again declared  
the motion out of order. The Hon. Minister of  
Finance then entered into an explanation of the  
matter, and the discussion was resumed. After a  
time, Mr. *Speaker* interposed, and said:—“ If any  
“ hon. gentleman raised the question of order, the  
“ motion could not be taken up. It could only be  
“ taken up, by general consent of the House.”  
Another attempt was made to resume the debate,  
but the *Speaker* ruled the discussion out of order,  
and the subject dropped.

On the following day, *D. E. Price, Esq.*, again  
brought the same matter before the House in the shape  
of an Address to His Excellency. A question of  
order was raised by *H. L. Langevin, Esq.*, that the  
Address had not yet been reached on the notice  
paper. The *Speaker* sustained the objection. When  
the item was moved in its proper turn, *H. L.*  
*Langevin, Esq.*, again objected, on the ground that  
the matter was not brought before the House in the  
manner required by law and Parliamentary practice.  
He contended that it should have been initiated by  
a resolution in committee of the whole. After a

short debate, the motion for an Address was withdrawn, without any decision of Mr. *Speaker* on the point of order.

14th & 15th Oct., 1863. (*Parliamentary Debates*, pp. 219, 221.)

No. 116.—An election petition may be received although not dated. Election Petition.

The petition of *G. C. Dessaulles Esq.*, and others, complaining of the undue election and return of *Rémi Raymond, Esq.*, for St. Hyacinthe, having been read, it was asked, by *Hon. H. L. Langevin*, whether the petition was dated? The *Speaker* after examining it said:—"He found no date at the conclusion of the petition—it bore, however, the *Speaker's* endorsement of the date of the 15th October last, shewing that the required recognizances, had been entered into." The *Hon. H. L. Langevin* then said he desired, under the circumstances, to put the question in a direct manner: Could the petition be received if it was not dated? The *Speaker* having examined the statute, was understood to say:—"That the law required that an Election petition should be endorsed by the *Speaker*, but that it did not appear to be necessary that it should be dated." In reply to a remark of the *Hon. H. L. Langevin*, that the practice of the House with regard to all petitions was, that no petition should be received unless signed and dated, the *Speaker* was understood to say:—"That the practice could not over-ride the law of the land as set forth in the Statute." After a short debate, the matter dropped.

22nd February, 1864. (*Parliamentary Debates*, p. 2.)

Order in debate.

No. 117.—Member called to order for attempting to speak a second time to the same question. Allowed to speak on special motion.

While the Address in answer to the speech from the Throne was under discussion, the *Hon. Geo. Et. Cartier* rose to address the House, but before he began, the *Speaker* announced in the usual form:—“The question is on the second paragraph of the Address.” The *Hon. Geo. Et. Cartier*, said:—“He had the floor of the House and intended to speak.” The objection was then raised that he had already spoken on the Address, to which the Hon. member replied:—“That he had spoken on a personal matter—a question of fact,—he repeated that he had the floor of the House and intended to keep it, he would move, if necessary, the adjournment of the House.” The *Speaker* said:—“The second paragraph of the Address is the only question before the House, and the Hon. gentleman is out of order.” After a short debate, the *Hon. Geo. Et. Cartier* was allowed to speak, on motion of *Jos. Dufresne, Esq.\**

25th February, 1864. (*Parliamentary Debates*, p. 32.)

Procedure on Bills.

No. 118.—Second reading of a Bill opposed on the ground that it had not been printed in both languages

*Thos. C. Street, Esq.*, having moved the second reading of a Bill, to amend the Consolidated Municipal Loan Fund Act, *Félix Geoffrion, Esq.*, enquired “whether the Bill was printed in French? if not, he objected to the second reading.” The *Speaker* said:—“He understood the Bill referred to Upper Canada, and if so, it was not necessary to have it printed in French, unless specially moved for.”

\* See also Nos. 149, 152.



Nevertheless, the second reading was postponed, in order that the Bill might be printed in French.

16th March, 1864. (*Parliamentary Debates*, p. 103.)

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No. 119.—Amendment to the usual motion of adjournment to alter the Adjournment period of adjournment previously agreed to for the Easter of the House. recess declared in order.

On the 16th March, a motion to adjourn the House from the 24th to the 28th March, was agreed to; two days afterwards, on the 18th, the usual motion to adjourn the House having been made, an amendment was moved, that it should adjourn until the 31st of the same month. The *Hon. M. H. Foley* raised the question:—"Whether it was in order to entertain the amendment, when the House had already voted to adjourn from the 24th to the 28th?" The *Speaker* said:—"The amendment did not conflict on its face, with the motion formerly passed, because that was only:—*When the House adjourns on the 24th it stand adjourned until the 28th.* The House was not obliged to meet on the 24th, if it chose not to do so, and if it did not meet, the motion formerly passed could have no effect. The present amendment was therefore in order. No notice was required upon any motion of adjournment." After debate, the amendment was finally withdrawn and the main motion carried.

18th March, 1864. (*Parliamentary Debates*, p. 107.)

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No. 120.—Motion to proceed on a particular order of the day, may be amended by substituting another order of the day. Orders of the day.

The *Hon. L. S. Huntington* having moved the House into committee of the whole, on the Bill

respecting securities to be given by public officers and contractors in certain cases, *J. B. E. Dorion, Esq.*, moved in amendment that the order of the day for resuming the consideration of his motion for an Address in relation to the regulations concerning the working of gold mines, be read. It was objected that the amendment was not in order, inasmuch as, under the 24th rule of the House, all items standing on the orders of the day, shall be taken up according to the precedence assigned to each, on the order book. The *Speaker* said:—  
 “According to the practice heretofore followed in this House and in the House of Commons, an order can be substituted for another by way of amendment.”

12th May, 1864. *Journal*, p. 194.

Land clauses  
in Private  
Bills.

**No. 121.**—A private Bill which contains clauses granting public lands in aid of the object of the bill, must originate in committee of the whole

The order of the day for the second reading of the Bill to incorporate the Ottawa and Huron Navigation Company having been read, an objection was made to the said Bill, that it had not originated in committee of the whole. Mr. *Speaker* decided as follows;—It is objected, that this Bill cannot further proceed, as it did not originate in committee of the whole House. It contains clauses granting public lands in aid of the object of the Bill. The same objection was taken in 1857, to the further progress of the Bill to incorporate the St. Maurice Railway and Steam navigation company, and was held fatal. I consider the objection now taken to the Bill be-

fore the House, to be also fatal. Whereupon it was ordered that the order be discharged and the Bill withdrawn.

13th June, 1864. *Journal*, p. 379.

No. 122.—But one amendment can be moved to a motion for the Amendments on going into Supply.  
House in Committee of Supply.

The order of the day for the House in Committee of Supply, having been called, the *Hon. A. T. Galt* moved that the Speaker do now leave the chair. The *Hon. A. A. Dorion* moved in amendment:—“That an humble Address be presented to His Excellency the Governor General, respecting a certain advance of money made out of the Public Chest without the authority of Parliament.” The *Hon. J. H. Cameron* moved in amendment to this amendment, to substitute another resolution on the same subject. Thereupon it was objected that the last motion was not in order. The *Speaker* decided as follows:—“This amendment is moved in amendment to the amendment proposed by the *Hon. A. A. Dorion*. In my opinion, the practice as at present in force in England is against an amendment being moved in amendment to the amendment proposed to the motion ‘That Mr. Speaker do now leave the chair, for the House to go into Committee of Supply.’ This, I conceive to be plainly laid down as the practice, in the last (5th) Edition of May’s Parliamentary practice, pages 366 and 555. The same question of order arose in Canada in 1858,\* and was then decided in accordance with the above practice, which decision, being

\*See Journal of the House, 1858, p. 732. (See also *ante* Nos. 32 and 63.)

“appealed from, was confirmed by a vote of the House. The practice thus confirmed, I hold to be the correct one, and it is, in my opinion, binding on me.” *Hon. J. H. Cameron's* motion was then withdrawn

14th June, 1864. *Journal*, pp 388, 389.

**Speaker's on law questions.** **No. 123.**—The Speaker is not bound to decide on a question of Law.

The *Hon. Mr. Howland* having moved, that an humble Address be presented to His Excellency the Governor General, praying him to recommend to parliament the payment of the balance due by the Government for certain expenses incurred in carrying out the Treaty of Reciprocal Free Trade between this Province and the United States of America, in accordance with an Order in Council passed on the 14th day of March, 1863, it was objected that it was contrary to the provisions of the 14th chapter of the Consolidated Statutes of Canada. The *Speaker* said:—That according to the usages of the British Parliament, he was not bound to decide on a question of Law. Whereupon the question for the address was put, and agreed to.\*

25th June, 1864. *Journal*, p. 444.

**Address to the Queen to Amend Union Act.** **No. 124.**—Address to Her Majesty, praying for the passing of an Act of the Imperial Parliament to unite the British North American Provinces, need not be originated by Resolution in Committee of the Whole

On the 3rd February, 1865, the *Hon. John A. Macdonald* moved:—“That an humble Address be pre-

\*See further No. 151.

“ sented to Her Majesty, praying that she may be  
“ graciously pleased to cause a measure to be sub-  
“ mitted to the Imperial Parliament, for the purpose  
“ of uniting the colonies of Canada, Nova Scotia,  
“ New Brunswick, Newfoundland and Prince  
“ Edward Island in one Government, with provi-  
“ sions based on certain Resolutions which were  
“ adopted at a Conference of Delegates from the said  
“ Colonies, held at the City of Quebec, on the 10th  
“ of October, 1864.” After a short debate, the *Hon.*  
*L. H. Holton* objected to the initiation of this Address  
otherwise than in Committee of the whole House.  
The Speaker decided the question of order as fol-  
lows.—“ The hon. member for Chateauguay has  
“ submitted that the motion is not in order, (alleging  
“ that) inasmuch as the proposed Address prays the  
“ Crown to recommend to the Imperial Parliament  
“ the passage of an Act laying new burdens on the  
“ people of this Province, and making dis-  
“ positions as to the public property and  
“ money of this Province,—the law of Parliament  
“ requires that it should be founded on Resolutions  
“ originated in Committee of the Whole House.  
“ Now, the 4th clause of the 14th Section of the Con-  
“ solidated Statutes of Canada, (enacts that) :—“ *The*  
“ *Legislative Assembly shall not originate or pass any*  
“ *Vote, Resolution or Bill for the appropriation of any*  
“ *part of the said Consolidated Revenue Fund, or of any*  
“ *other tax or impost, to any purpose which has not been*  
“ *first recommended by a Message of the Governor to the*  
“ *Legislative Assembly, during the Session in which such*  
“ *Vote, Resolution or Bill is passed. And the 88th Rule*  
“ *of this House (provides, that) if any motion be made in*  
“ *the House for any public aid or charge upon the people,*  
“ *the consideration and debate thereof may not be pre-*  
“ *sently entered upon, but shall be adjourned till such*

“ *further day as the House shall think fit to appoint ; and*  
 “ *then it shall be referred to a Committee of the Whole*  
 “ *House before any Resolution or Vote of the House do*  
 “ *pass thereupon.* (The Statute, and the Rule,) which  
 “ seems to be based thereon, refer to Resolutions or to  
 “ an Address upon which some future action of this  
 “ House is to be based. I fail to see in this motion that  
 “ the action of this House is to be involved any further  
 “ after passing this Resolution. As this matter was  
 “ discussed shortly before I left the Chair, at six  
 “ o’clock, I took occasion to put in writing my opinion  
 “ upon the subject, (which) I will read : “ The motion  
 “ is for an Address to Her Majesty, in which the  
 “ Resolutions on Confederation of the Provinces are  
 “ set out. How does this differ from an Address  
 “ moved to His Excellency, which always comes on  
 “ motion upon a two days’ notice given, as in this  
 “ case ? I cannot see how, as a point of order, I can  
 “ treat the matter other than as in the ordinary case  
 “ of an Address. The argument is that it will be  
 “ inconvenient so to discuss it. That is not ad-  
 “ dressed to a question of order, but to one of con-  
 “ venience. The case cited by the hon. member for  
 “ Chateauguay, of Resolutions upon the question of  
 “ a Bill for the Government of India, was not one of  
 “ Resolutions for an Address, but of Resolutions,  
 “ simply containing the proposed principles of the  
 “ Bill intended to be introduced. It is not pretended  
 “ here that this House has any right to pass such a  
 “ Bill, or that it is intended to present one on that  
 “ subject here. The reason why it is convenient to  
 “ discuss matters in the form of a Resolution on  
 “ which a Bill is afterwards to be introduced, is that  
 “ Resolutions more easily admit of alteration. The  
 “ Government have expressed their determination

“not to admit of any alterations in these Resolutions. Thus it is obvious that the same reasons for going into Committee do not hold. The member who moves an Address can force the vote on his motion in the manner in which he has put it, unless the form of it be changed by amendment, and this appears to be the only course open here. In truth the word ‘Resolutions’ might very well have been omitted altogether from this motion. Whatever might have been the result on a mere question of convenience, it is certain that the Speaker does not decide that matter. His duties are to preserve order and decorum, and to decide questions of order.”

3rd Feb., 1865. *Journal*, pp. 67-74.

No. 125.—Motion cannot be moved before its turn had been reached on the Notice Paper. Precedence of motions

The *Hon. John Rose*, having risen to make a motion of which he had previously given notice, he was called to order by the *Hon. L. H. Holton*, who said:—“That no such motion could be made when motions were called. It could only properly be brought up when the turn of ‘notices of motion’ came.” The *Hon. John Rose* replied that his motion was as follows:—“That the resolution in the hands of Mr. Speaker respecting the Union of the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island into one government, shall be discussed from day to day, immediately after routine business, from three o’clock in afternoon, and as the first order of the day, until such resolution be disposed of.” Mr.

*Speaker* was understood to say:—"It could only be brought up when the notices of motion were called, inasmuch as notice had been given." The motion was then allowed to stand over.

24th February 1865. (*Parliamentary Debates*, p. 135.)

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Adjournment of Debate. **No. 126.**—An amendment to a motion to adjourn a debate, that the same be adjourned to a future day, and then to have priority, declared in order.

When the order of the day for an Address to Her Majesty, respecting the Confederation of the British North American Provinces, was called, a motion to adjourn the debate was moved by the *Hon. Jos. Cauchon*. To this motion, the *Hon. Geo. Et. Cartier* moved an amendment in the following words:—"and be taken up, as the first order of the day to-morrow, after routine business" The *Hon. L. H. Holton* raised the question of order, and said:—"In the first place, he was of opinion that an amendment to a motion for an adjournment of the debate could not be moved; and, in the next place, even if it could, as it would have the effect of suspending a rule of the House, about the order of debate, there must be notice." The *Speaker* decided:—"That he had not the slightest doubt the motion was in order."

1st March, 1865. (*Parliamentary Debates*, p. 145.)

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Reading a Speech.

**No. 127.**—A member cannot read his speech, but may read notes.

While the *Hon. Jos. Cauchon* was speaking on the Confederation question, he made a great many



quotations from various papers written on the subject. While he was doing so, *Jos. F. Perrault, Esq.*, rose to a question of order, and asked whether the Hon. member for Montmorency was in order in reading his speech from beginning to end? The *Speaker* said:—"It was not exactly in order for an hon. member to read a speech quite through, but he might make use of notes."

2nd March, 1865. (*Parliamentary Debates*, p. 149, *Confederation Debates* vol. p. 559.)

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No. 128.—Whether it is disorderly to use the Governor General's name in a debate. Reference to Governor in debate.

While the Resolutions upon the Confederation of the provinces were under consideration, His Excellency's name having been used by the *Hon. Geo. Brown*, the *Hon. A. A. Dorion* rose to a point of order and asked if it was in order to bring before the House, the authority and name of the Governor General? The *Speaker* said:—"The name of the Sovereign cannot be introduced in this way, but I do not know that the rule extends further."

6th March, 1865. (*Confederation Debates* vol. p. 664.)

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No 129.—Motion to adjourn a debate, followed by two amendments—Irregular amendments to a motion to adjourn debate.  
 one asking for papers before resuming the debate, the other for reasons alleged, to adjourn the debate for one month, or, until an appeal had been made to the people on the Confederation scheme, both amendments declared out of order.

On the 7th March, *F. Geoffrion, Esq.*, having moved the adjournment of the debate on the Confederation question, the *Hon. Geo. Et. Cartier* moved in amendment that the debate be resumed at the next sitting

of the House, as the first order of the day after routine business. The *Hon. L. H. Holton* then moved in amendment:—That the debate be adjourned till Monday next, and that an humble address be presented to His Excellency the Governor General, praying that he will cause to be laid before this House, in the meantime, certain specified information, in order that this House may be better enabled to consider the effect of the proposed constitutional changes on the material interests and the future political condition of the country. The *Hon. Geo. Et. Cartier* raised the point of order and said:—that the amendment was irregular and had no affinity whatever to the question under consideration. The *Speaker* said:—“It is a well understood rule, that no amendment to a motion for adjournment can be proposed, unless it relates to the time to which the adjournment is proposed to be made. The first portion of the motion is in order, or would be in order, if it were separated from what follows and proposed by itself; but I cannot compel the hon. mover of it to alter it. According to the best of my judgment, the motion is out of order.” The *Hon. L. H. Holton* then appealed from the decision of the chair and a division was taken, when the decision of the *Speaker* was sustained by a vote of 59 against 20. Mr. *Holton's* amendment having been declared out of order, another amendment was moved by the *Hon. A. A. Dorion*:—“That the debate on this resolution, involving, as it does, fundamental changes in the political institutions and in the political relations of this Province, changes which were not in the contemplation of the people at the last general election, ought, in the opinion of this House, to be

“ adjourned for one month, or until such time as the  
 “ people of this Province shall have an opportunity  
 “ of constitutionally pronouncing their opinion  
 “ thereon, by an appeal to them.” The *Hon. Geo. Et. Cartier*, raised the same point of order that he had brought against the former amendment. Whereupon *Mr. Speaker* said:—“ The practice in such cases appeared to be for the *Speaker* to eliminate from such motions all that was irregular, and if the hon. member who prepared the motion consented to that, to put it to the House as it then stood. If the hon. member would not consent, why the motion fell to the ground. If the hon. member for Hochelaga would consent, therefore, to his eliminating from the motion all but that which referred to the adjournment he (the *Speaker*) would put it to the House. If not, he would be obliged to rule it out of order.” The *Hon. Mr. Dorion* having declined to allow his motion to be altered, it was ruled out of order. The *Hon. Geo. Et. Cartier's* motion was then agreed to and the debate adjourned, to be resumed at the next sitting of the House.

7th March, 1865. (*Parliamentary debates*, p. 163. *Confederation debates* vol. pp. 767-770.)

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No. 130.—A member may move the previous question upon his own Previous question motion.

On the 3rd of February, an Address to Her Majesty, respecting the Confederation question, was moved by the *Hon. J. A. Macdonald*. On the 7th March, the same hon. gentleman moved the previous question, and on the 10th, when the order of the day was called to resume the debate on the previous question, the *Hon. L. H. Holton* rose to a point of order, he objected that the *previous question*

was in the nature of an amendment, and that no member could move an amendment to his own motion. After discussion, Mr. *Speaker* decided as follows:—"The original motion made by the Hon. Attorney General for Upper Canada, is, that the House should concur in certain resolutions relating to a Federal Union of the Provinces. Debate having arisen thereon, the Hon. Attorney General for Upper Canada moves, not in amendment, in my opinion, *that that question be now put*. The substance of an amendment is to alter the original question. Does this motion alter the original question? So far from that, it is a proposal to bring that question before the House for immediate decision. The authorities cited to show that this motion is an amendment, sustain the contrary view, in my judgment, because they only state that the *previous question is in the nature of an amendment*. If it were really an amendment or were to be used as an amendment, it would be stated that it was, in fact, an amendment. The motion to adjourn is also spoken of as being in the nature of an amendment, but it is not an amendment, and, like the *previous question*, does not displace the original proposition, if carried. Hence I conclude that the *previous question* is not an amendment. The objection that the Attorney General for Upper Canada cannot move it on account of having proposed the original motion, in my opinion, is not valid."

10th March, 1865. (*Parliamentary Debates*, p. 176.  
*Confederation Debates* vol. p. 893.)

**No. 131.**—A Motion for a committee to draft an Address to Her Majesty, Address to based on resolutions adopted by the House, may be amended the Queen, ed by substituting an Address to His Excellency, praying for an appeal to the people before any action be taken on the resolutions adopted.

The discussion on the Confederation resolutions having been brought to a close and the resolutions agreed to by the House, a motion was made on the 13th March, by the *Hon. J. A. Macdonald*, that a select committee be appointed to draft an Address to Her Majesty thereupon. The *Hon. J. H. Cameron* then moved in amendment, that instead thereof it be Resolved, that:—"An humble Address be presented to His "Excellency the Governor General, praying that "His Excellency, in view of the magnitude of the "interests involved in the resolutions for the Union "of the Colonies of British North America, and the "entire change of the constitution of this province, "will be pleased to direct that a constitutional appeal "shall be made to the people, before these resolu- "tions are submitted for final action thereon to the "consideration of the Imperial Parliament." The *Hon. J. A. Macdonald* objected to the amendment, and asked the decision of the *Speaker* on the point of order. The *Speaker* said:—"Having learned that the point of "order was to be raised, I have looked into the "matter, and decide that the resolution is in order." The amendment was then put, and lost on division.

13th March, 1865. (*Parliamentary debates*, p. 182,  
*Confederation Debates vol. p. 962.*)

**No. 132.**—First reading of a Bill may be immediately followed by a Procedure on motion that it be read a second time on the next day. Bills.

*Robert Bell, Esq.*, having moved the first reading.

of a Bill respecting education in Upper Canada, and the Bill having been read, he then moved the second reading, for the following day. *Thos. Scatcherd, Esq.* demurred that due notice had not been given, in accordance with the 39th rule. The *Speaker* ruled against Mr. Scatcherd.

3rd August, 1865. (*Parliamentary Debates*, p. 74.)

Amendments  
on going into  
Supply.

No. 133.—Amendment to a motion for going into committee of Supply does not require notice.

The *Hon. A. T. Galt*, having moved the House into committee of Supply, an amendment was moved by the *Hon. L. H. Holton*, in the following words:—

“ That it be resolved, that the renewal of the treaty  
“ of Reciprocity with the United States is regarded  
“ by the people of this province as an object of the  
“ utmost importance, and in order to secure that  
“ object, as well as to augment the trade and advance  
“ the general prosperity of the country, it is expedient  
“ that the work of enlarging the Welland and St.  
“ Lawrence Canals should not be postponed but  
“ should be prosecuted at the earliest possible period,  
“ in preference to any other work involving a con-  
“ siderable expenditure.” The question of order  
was raised by the *Hon. J. A. Macdonald*, who said;—  
that if the resolution was moved as an amendment,  
it was in order, but if moved as an original motion  
it required a notice. The *Hon. L. H. Holton* having  
declared that his resolution was an amendment, the  
*Speaker* decided:—“ That the motion being an  
amendment, in his opinion, was in order.”

24th August, 1865. (*Parliamentary Debates*, p. 41.)

No. 134.—Private Bill from the Legislative Council which had been introduced and passed by that House as a Public Bill, decided to be a "Private Bill," and subject to the rules affecting such measures Procedure on Private Bills.

*Mr. Street* having moved the second reading of a Bill, from the Legislative Council, entitled:—"An Act to enable the Church Societies and Incorporated Synods of the Church of England Dioceses in Canada to sell the Rectorial Lands in the said Dioceses," it was objected that the Bill being a Private one, should have been brought in on a petition. *Mr. Speaker* decided that "it was a Private Bill." The measure having been introduced and passed through the Legislative Council as a Public Bill (see: Leg. Coun. Journals, 10th August, 1865, p. 32) was not proceeded with.

30th August, 1865. *Journal*, p. 123.

No. 135.—The pecuniary interest which would disqualify a member from voting on a Bill, must be direct and personal, not one in common with others. Interest to disqualify a member from voting.

Upon a division having taken place upon a Bill respecting Permanent Building Societies in Upper Canada, which had been introduced by *T. C. Street, Esq., Thos. Scatcherd, Esq.*, raised the point of order that:—"Under the rule of the House, no member having a direct pecuniary interest, could vote upon a question. The hon. member for Welland (*T. C. Street, Esq.*) was interested in a Building Society within the meaning of the 16th rule." *Mr. Speaker* said:—"That the interest which qualifies must be a direct pecuniary interest, separately belonging to the person whose vote is questioned, and not in common with the rest of Her Majesty's subjects, and that, in his opinion, as

“the Bill relates to Building Societies in general, the member for Welland is not precluded from voting.” After some further conversation, the Bill was read a third time, and passed.\*

13th Sept., 1865. *Journal*, p. 228.

Private Bills. No. 136.—Private Bill opposed on the ground that it was in excess of the notice given, but allowed to proceed

Objection taken that certain amendments which had been made to the Bill to amend and extend the Acts relating to the Cobourg and Peterborough Railway were in excess of the notice. The *Speaker* decided:—“That the proper course is to refer the proposed amendments to the Standing Committee on standing orders, to see that the amendments are not in excess of the standing order in reference to notices.” *M. C. Cameron, Esq.*, thereupon moved that the course suggested by the *Speaker* should be followed, but the motion was lost on division, and the Bill read a third time and passed.

14th Sept., 1865 *Journal*, p. 242

Duties of Excise. No. 137.—Bill respecting duties of Excise opposed on the ground that it should have originated in committee of the whole, objection overruled

The *Hon. A. T. Galt*, having moved the House into committee of the whole, on the Bill respecting duties of Excise, the *Hon. L. H. Holton* raised the question of order and urged that the Bill should have originated in committee of the whole, inasmuch as it related to a matter of trade, and proposed to



impose new burdens on the people. The *Speaker* decided:—"In my opinion the Bill does not affect trade as meaning commerce, and so far as it imposes a burden upon the people, the objection should have been taken upon the second reading." The House then went into committee on the Bill.

14th September, 1865 *Journal*, p. 243.

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No. 138.—A motion for an Address to His Excellency of which no Notice of motion had been given declared out of order, but allowed to pass.

*W. F. Powell, Esq.*, having moved an Address to His Excellency for certain papers connected with the Arbitration Commission of the Public Buildings at Ottawa, a short discussion ensued, during which a question of order was raised by *J. B. E. Dorion, Esq.*, in the following words:—"If there is a debate on this matter, I must raise the question of order; the motion is not upon the order-paper to-day." Mr. *Speaker* said:—"The motion of course is out of order." But after a short debate, and by general consent, the motion was put and carried.

14th Sept., 1865. (*Parliamentary debates*, p. 113.)

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No. 139.—Bill altered after its introduction and distribution through several stages at one sitting. Passed Procedure on Bills.

The *Hon. A. T. Galt*, having moved the second reading of a Bill to impose duties on Promissory Notes, the *Hon. L. H. Holton* raised a question of order, on the ground:—"That the Bill had been altered, or rather a new bill substituted after it had been introduced, read a first time, printed, and distributed." After a short debate on the

point of order, *Mr. Speaker* said:—"The Bill is in order, inasmuch as it is in conformity with the resolutions introduced into the House." The Bill having been read a second time, a motion was immediately made:—that the House go into committee on the Bill. The *Hon. L. H. Holton* contended that a second stage could not be taken at the present sitting. After a short discussion, the *Speaker* said: "If there was urgency, the Bill might be put through the remaining stages. It was, however, for the House to decide by its action, whether there was such urgency, and not for him." The Bill was then committed, considered, reported, read a third time and passed, at the same sitting.

15th Sept., 1865. (*Parliamentary Debates*, pp. 124, 125.)

Procedure on  
Bills,

No. 140.—Bill passed through several stages during the same sitting.

*P. G. Huot, Esq.*, having moved the House into committee of the whole on a Bill to authorize *W. J. Bickell, Esq.*, to construct a bridge over the river St. Charles, the House went into committee, and after a short time made a report. *P. G. Huot, Esq.*, then moved the concurrence in the said report, but the motion was objected to by *H. E. Taschereau, Esq.*, who said:—that if any member objected, this stage could not be taken. *Mr. Speaker* said:—"That he thought the plea of urgency could be advanced in the case of this Bill." The House then adopted the report and the Bill was read a third time and passed.

15th September, 1865. (*Parliamentary Debates*, p. 125.)

- No. 141.—Motion to read an entry in the Journals respecting a petition, followed by another motion to lay such petition on the table. Motions requiring notice.  
 Second motion declared out of order on the ground that no notice had been given

*Alonzo Wright, Esq.*, having moved for the reading of an entry in the Journals of the 17th March, 1865, in so far as it related to the petition of *P. Ayles, Esq.*, praying for an investigation into the conduct and acts of *Judge Aimé Lafontaine*, the said entry was accordingly read. Another motion was then made by *Mr. Wright* to lay the said petition on the table of the House, which was opposed by the *Hon. Geo. Et. Cartier* as being out of order, no notice having been given. The *Speaker* decided:—"That *Mr. Wright's* motion was out of order, as he had given no notice."

25th July, 1866. (*Parliamentary debates*, p. 59.)

- No. 142.—Breach of privilege—A prisoner at the Bar of the House having answered to the charge made against him, is allowed to make a statement in relation to the treatment he had received, while under arrest, at the hands of an honorable member. Person in custody for breach of privilege.

On the 31st July, 1866, the *Hon. L. H. Holton* informed the House that an hon. member had been assaulted, while in the Library, by a stranger. The member who had been assaulted, *J. B. E. Dorion, Esq.*, then related to the House what had occurred in the Library between himself and *Mr. Elzéar Gérin-Lajoie*. A warrant was thereupon issued by *Mr. Speaker* for the arrest of *Mr. E. Gérin-Lajoie*. On the following day the prisoner appeared at the Bar of the House, and having answered to the charge made against him, he asked permission to make a complaint. Several members having objected to

this demand, the *Speaker* ruled;—That the question could not be put until after the statement was read to the House. He also stated that in his judgment it would be most unfair to the prisoner not to allow him to finish his statement. The statement made by the prisoner having been read to the House, several members again objected to the request of the prisoner,—that he might be permitted to lodge a complaint of the treatment he had received while under arrest, at the hands of an honorable member. The *Speaker* said:—“That if a prisoner, immediately after saying he had finished his statement, went on to say more in his defence, he did not believe there was a court in existence which would refuse to hear him.” *Mr. E. Gérin-Lajoie* then made his complaint.

31st July and 1st August, 1866. (*Parliamentary Debates*, pp. 69, 70.)

Procedure on Bills. **No. 143**—Second reading of a Bill objected to on the ground that it should have originated in Committee of the Whole. Objection sustained.

The second reading of the Bill to capitalize the interest debt, and extend the time for payment of the indebtedness of the County of Perth, having been proposed, objection was taken that the Bill affected the Public Revenue, and should have originated in Committee of the Whole. *Mr. Speaker* decided:—“That the Bill was out of order and should have originated in a Committee of the Whole.”

6th August, 1866. *Journal*, p. 299.

**No. 144.**—Third reading of a Bill objected to on the ground that it should Procedure on have originated in Committee of the Whole; objection over-Bills. ruled, as the Bill did not impose any new burthen.

The *Hon. J. A. Macdonald* having moved the third reading of a Bill to enable compensation to be made to the heirs of *Mrs. Elizabeth McKay*, for the erroneous issue by the Crown of Letters Patent for lands to which she was entitled, a question of order was raised on the ground that the Bill should have originated in committee of the Whole. *Mr. Speaker* decided:—“That this Bill was, by previous ruling, “decided to be a public Act, and its object is to “enable the Commissioner of Crown lands to deal “with a case coming within the 23rd Section of the “Public Land Act of 1860, in a case where Patents “have issued inconsistent with each other through “error. This is not to impose any new burthen, but “is simply to enable the government to deal with a “case coming within the purview of the Act. The “time and manner of dealing with the case being “that part of it in which the doubt as to the com- “missioner’s authority exists, and not in the case “itself.”

13th August, 1866. *Journal*, p 371.

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### MR. SPEAKER COCKBURN’S DECISIONS.

**No. 145.**—An election petition having affidavits attached to it may be Election Peti- received. Whether the petitioners are sufficiently described tions. in the petition is a question for the Committee, and not for the House, to determine.

On the 19th Nov., 1867, upon a Petition respecting the Essex election being brought up, *Thos. R. Ferguson, Esq.*, objected to it on the ground:—“That “certain affidavits (were) attached to the Essex

“petition which should not be so attached, and also, “that the petitioners had not described who or what “they were.” The *Hon. Sir John A. Macdonald* said it was a subject for the Election Committee. On the 21st November, on the motion that the said petition be now received, the *Speaker* said:—“With regard to the most important objection—that relating to the description of petition—it was a matter for the Election Committee to decide upon. “As to the affidavits being attached to the petition, “there was no rule of the House in relation to the subject. He, therefore, decided that the petition “ought to be received.” The motion was accordingly agreed to.

19th and 20th Nov, 1867. *Journal*, p. 28.

**Election Petitions. No. 146.**—An Election petition may be received on the 15th day after the opening of the First Session of a Parliament

On receiving the Petition of *Paul Dems, Esq.*, protesting against the return of *Michael Cayley, Esq.*, for the County of Beauharnois, the *Hon Sir John A. Macdonald* requested on behalf of the House, that the *Speaker* should determine whether it had been presented within the prescribed time (fourteen days) limited by law. Mr. *Speaker* decided as follows:—  
 “The question is whether this petition is in time, “having been presented to the House on the 15th “day of the Session, including the first day, on “which the election of Speaker was the only business of the House.

“The Statute requires that the last of the 14 “days, shall be a day on which that head of the “Routine set apart for bringing up petitions shall “have been gone through with, in other words a “clear Parliamentary day.

“ It is fairly open to argument, that the first day  
 “ to be counted should also be a clear Parliamentary  
 “ day, but practically, the first day of the Session is  
 “ not open for the reception of petitions by any  
 “ Routine or Order of the House, and it is therefore  
 “ a matter of doubt whether it should be counted  
 “ against this petitioner The question is one which  
 “ may be tried by the select committee,—and in  
 “ order that it may be kept open, I recommend that  
 “ the petition should now be received by the House.”  
 The petition was then received and read.

26th November, 1867 *Journal*, p. 35.

No. 147.—An Election Petition presented on the 16th day after the opening of the Session cannot be received. Election Petitions.

On the 26th Nov., 1867, an Election petition from L. P. W. *DesBrisay*, of Richibucto, (New Brunswick), was presented against the return of *Auguste Renaud, Esq.*, for the Electoral district of Kent, (N. B.) Objection was taken on the ground that it was not presented within the prescribed time After discussion on the point of order, the *Speaker* said:—“ He would reserve his decision until the next day.” On the morrow, a motion having been made that the said petition be received, the *Speaker* decided as follows:—“ This petition was presented on the sixteenth day of the Session, and the question arises—“ is it in time, according to the Laws of New Brunswick ?

“ The Statute regulating Elections in that Province does not limit the (time\*) for presenting Petitions; that is done by a Rule of the House of

\* Although the Official Report (Journal of the House) uses the expression “ term,” the *Speaker* says the expression he used, and intended to use, was “ time”—hence the correction.

“ Assembly. I think when the Election Law of that  
 “ Province is imported here for the trial of Contro-  
 “ verted Elections taking place there, the Rules of  
 “ the House must be considered as a necessary  
 “ accompaniment to the Statute Law. It was plainly  
 “ the intention of the Union Act that the whole Law  
 “ relating to Elections, held in the respective Pro-  
 “ vinces, should apply to those Elections. And this  
 “ object would be defeated, were a different Rule  
 “ now to be adopted from that hitherto in force in  
 “ New Brunswick.

“ It may also be considered that this, if an unpro-  
 “ vided case, comes under the 116th Rule of this  
 “ House, and that the practice in England must be  
 “ resorted to.

“ In either view, the Petition is too late, and I rule  
 “ that it should not be received as an Election peti-  
 “ tion.”

26th & 27th Nov., 1867. *Journal*, pp. 37, 38.

No. 148. — Election petition, in a case where no election had taken place, in consequence of a riot, presented and received

Election  
 Petitions.

A motion having been made to receive the petition of the *Hon. Jean Charles Chapais*, Minister of Agriculture, of the parish of St. Denis, in the electoral district of Kamouraska, in the Province of Quebec, an objection was made to its reception, on the ground that it was not an Election Petition. Mr. *Speaker* decided as follows:—

“ The petitioner alleges ‘ that he had a right to  
 “ vote, and that he was a candidate at said election  
 “ and complains that he was not returned as mem-  
 “ ber elect, but that the Returning Officer made a  
 “ special return, to his great prejudice, &c., &c.’  
 “ There are three definitions, by the statute, of what  
 “ shall be deemed an election petition under it :—



“ 1st. When it complains of an undue election.

“ 2nd. That no return has been made according to the requisition of the writ.

“ 3rd. The special matters contained in such return.

“ This petition falls under the second head, and the objection is taken that it cannot be deemed to be an Election Petition under the statute, inasmuch as it appears by the special return of the Returning Officer before the House, &c. ‘ That by reason of a serious riot, &c., he was prevented from holding the said Election, and that no Election was, in fact, held.’

“ This objection appeared to me, at the first blush, to be fatal to the petition, but I have referred to an authority which, I think, settles all doubts. The case of the borough of *Knaresborough in 2nd Peckwell's Election cases*, is remarkably similar in its facts. That was referred to a select committee and adjudicated by that committee under the same condition of Law as we have under the Controverted Elections Act of *Canada*.

“ In that case, the Election was prevented by riot before the candidates had been declared, and the Returning Officers returned that they were thereby unable to execute their precept.

“ The committee reported to the House :—

“ ‘ That no election had been held.

“ ‘ That a new writ ought to issue, and that certain persons, naming them, were concerned in the riot.’

“ The report was adopted by the House, a new writ was issued, and the Attorney General was ordered forthwith to prosecute the rioters. An

“information was tried against them shortly after,  
 “and they were convicted and sentenced to imprisonment by the Court of King’s Bench.

“All these proceedings were taken in a case  
 “where, like the present, no election had, in fact,  
 “been held.

“In view of this authority, I feel bound to recommend to the House that the petition in question  
 “be received. The delay in issuing a new writ,  
 “may seem a present injustice to the Constituency,  
 “but a much greater evil might flow from an invasion of the spirit of our Election Law, viz:—to  
 “remove from the House all questions touching  
 “Elections, or the rights of Candidates and Electors,  
 “which are to be adjudicated under the sanctity of  
 “an oath.”

“I therefore recommend the reception of this  
 “Petition, as an Election Petition.” The Petition  
 was then received and read.

29th Nov. 1867. *Journal*, pp. 40, 41.

Order in debate.

No. 149.—The rule of the House, forbidding any member to speak more than once on a motion, to be strictly observed.

The *Hon. Sir John A. Macdonald* having moved:—  
 “That the return of the Returning Officer for the  
 “last election for the Electoral District of  
 “Kamouraska, and the petition of the *Hon. J. C.*  
 “*Chapais*, relating to that election, be referred to  
 “the Standing Committee on Privileges and Elections to report thereon, and that, pending the consideration of the subject, the issue of a writ for an  
 “election in the said Electoral District be postponed.” A debate ensued during which the *Hon. Geo. Et. Cartier*, having drawn a parallel between

the County of Lotbiniere election in 1858 and the present case of Kamouraska, and pointed out the steps taken by the Government with respect to the Lotbiniere election, alluding incidentally to the Corrigan murder case, a point of order was raised by *Mr. Joly*, who said :—"The murder of Corrigan had "nothing to do with the point at issue, and was the "result of a religious, not an election, quarrel." The *Speaker* having decided that the reference to the said case was in order, the debate proceeded. At its close the *Speaker* said :—"That in order to put a "check upon such sharp retorts as they had been "listening to, he would, in future, enforce a rigid "observance of the rule forbidding any member to "speak more than once upon the same motion."\*

20th March, 1868. (*Parliamentary debates*, p. 130.)

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**No. 150.**—Second reading of a Bill objected to, on the ground that being Procedure on a measure affecting Trade, and involving a pledge of the Bills. public credit, it ought to have originated in committee of the whole; objection overruled.

The *Hon. John Rose*, having moved the second reading of the Bill to enable Banks in any part of Canada to use Notes of the Dominion, instead of issuing notes of their own, the *Hon. L. H. Holton*, contended "that this being a Bill relating to Trade, "and also involving a pledge of the Public Credit, "it ought to have originated in committee of the "whole House, and, that step not having been taken "prior to the first reading, the Bill cannot now be "read a second time." After considerable discussion, the *Speaker* said :—"I hold that the Bill does "involve an increased pledge of the Public Credit,

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\* See *Post* No. 152,

“ and therefore ought (see Rule 41, and May, page 364) strictly to have originated in committee of the whole House.

“ But the Bill, having been read a first time, by leave of the House, and without objection, and the House, subsequently, having been moved into committee upon the resolutions, which were afterwards concurred in by the House, it is now too late to raise the objection. In none of the precedents quoted where Bills of this class were rejected on the 2nd or 3rd readings had the House been in committee,—that proceeding having been entirely omitted. Here the contrary appears; and we need not enquire at this stage whether the introduction of the Bill, or the Resolutions in committee, were the first step in point of time.

“ I think the Hon. member is not required to proceed *de novo*, but may go on with his Bill.”  
The Bill was then read a second time.

27th March, 1868. *Journal*, p. 161.

Procedure on Bills.  
Law questions decided by the House.

**No. 151.**—Second reading of a Bill objected to, on the ground that, being a measure affecting Trade, it should have originated in Committee of the Whole, objection overruled. Further objection, as to whether the House had power to legislate in the matter, to be decided by the House itself, and not by the Speaker.

The *Hon. John Rose*, having moved the second reading of the Bill respecting Insurance Companies, requiring the deposit of a guarantee of \$50,000 from Fire, and \$100,000 from Life Insurance Companies, to be made in Dominion stock, the *Hon. L. H. Holton* objected that—“this Bill relates to Trade, and should be based upon Resolutions passed in Committee of the Whole House. That it is a Bill

“ relating to Trade, and that, from the terms of the  
 “ ‘ British North America Act,’ unless it could be so  
 “ treated, it is beyond the jurisdiction of this House,  
 “ as it is only under the head ‘ Relating to Trade  
 “ ‘ and Commerce,’ that this House can deal with it,  
 “ and that, if it does not come under that head, the  
 “ jurisdiction falls to the Local Legislatures.”  
 After much discussion on the point of order, the  
*Speaker* decided as follows;—“ I hold that the term  
 “ ‘ Trade,’ does not, in its general and popular sense,  
 “ apply to Insurance. Trade means buying and  
 “ selling, importing and exporting goods to market,  
 “ banking, railways, navigation and telegraphs, all  
 “ assist Trade, and are auxiliaries, but are not  
 “ branches of Trade in the popular sense; yet, cer-  
 “ tainly, the first, ‘ Banking,’ is more intimately con-  
 “ nected with Trade than Insurance.

“ I do not find that Bills relating to these subjects  
 “ must necessarily be considered in Committee of  
 “ the Whole; sometimes it may have been done, but  
 “ the practice is not uniform, and I see no rule which  
 “ requires it. I overrule the point of order.”

The House then proceeded upon the Bill. The  
 other question raised by *Mr. Holton*, viz:—“ that the  
 “ regulation of Insurance Companies is a subject  
 “ properly within the jurisdiction of the Provincial  
 “ Legislatures,”—being no point of order, but a  
 question of law, was advisedly passed over by the  
*Speaker*.\* It was, however, decided by the House  
 on 20th May, (See Journal, p. 426) adversely to *Mr.*  
*Holton*’s objection.

27th March, 1868. *Journal*, p. 161.

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\* See *Ante* on this question, No. 123.

Order in debate.

No. 152.—Member called to order for speaking a second time on the same motion.

*Hon. L. H. Holton* having moved for copies of all correspondence between the Minister of Finance and the Bank of Montreal, respecting the sale of Dominion stock, to be laid before the House, a discussion ensued, in the course of which, an hon. member having risen to speak on the motion a second time, was called to order by the *Speaker*.\*

1st April, 1868. (*Parliamentary debates*, p. 152.)

Amendments to an Address.

No. 153.—Address to His Excellency Amendment proposed and objected to, on the ground that it would be inconsistent with the motion, and that both would be unintelligible if conjoined, objection overruled.

*E. M. Macdonald, Esq.*, (of Antigonish) having moved an Address to His Excellency, for copy of Address of House of Assembly of Nova Scotia to the British Government, praying for the repeal of so much of the British North America Act as refers to that Province, and also for copies of any instructions to the *Hon. Dr Tupper*, now on a mission to England in relation to Nova Scotia affairs, *Dr. Parker* moved an amendment to add to the address, a request for the recall of *Dr. Tupper* from his mission. *Alex. Morris, Esq.*, then objected that the amendment was inconsistent with the main motion and that both would be unintelligible if conjoined. The *Speaker* overruled the objection. †

6th April, 1868. *Journal*, p. 185.

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\* See also Nos 117, 149

† See also:—No 86

No. 154.—Supply—An Amendment to a motion for the House to go <sup>Amendments</sup> again into Committee of Supply is not irregular because it <sup>on going into</sup> is complex in its nature. <sup>Supply.</sup>

The *Hon. John Rose*, having moved the House again into Committee of Supply, the *Hon. L. H. Holton* moved in amendment that all the words after "That" in the original motion be omitted and the following inserted:—"It is expedient to provide for the reduction, on the first day of July next, of the salary of the Governor General to \$35,000 per annum, and of the salaries of all officers and employes of the Government receiving more than \$800 per annum to the extent of at least twelve and a half per cent. and also to provide that no salaried officers shall receive any emolument for special services." The *Hon. C. Dunkin* objected that the motion was out of order, on the ground, "That being in its nature complex, and such as to require division in order to a regular vote thereon, it is yet moved as an amendment to the motion to go into Committee of Supply, [and] therefore, by the rules of the House (if so put) cannot be divided, or any amendment thereto so much as moved." The *Speaker* decided as follows:—"This motion which contains three distinct propositions, on each of which a separate question might be put (and is therefore a complex motion) is not therefore irregular or out of order. The House could in general, according to precedent, order a complicated motion to be divided. But that could only be done by amending the motion, which cannot be done now, for but one amendment can be moved in going into Committee of Supply. Therefore the motion must stand or fall as a whole. The difficulty pointed out by the hon. member for

“Brome is one which does not affect the regularity of the motion, and that is all that I have to deal with.” The amendment was then put and negatived.

1st May, 1868. *Journal*, pp. 268–270.

Petition for money grants. **No. 155.**—Petition praying for a grant of public money, if not recommended by His Excellency, cannot be received.

The *Hon. Mr. Cameron* (Peel), having moved the reception of the petition of *Thomas Rigney*, of the City of New York, in the United States of America. *Mr. Alexander Mackenzie* opposed its reception, on the ground that it asks for a grant of public money and has not been recommended by the Governor General, and therefore cannot properly be received.

The *Speaker* decided as follows:—“Though there is no rule of this House expressly applicable to the question, yet, by Rule 116, it is ordered, that in unprovided cases, the rules, usages, and forms of the English House of Commons, are to be followed.

“The practice in *England* has been clearly against the reception of such petitions, and I find, by a standing order of the House of Commons of the 20th March, 1866, it is declared:—‘That this House will receive no petition for any sum relating to public service, or proceed upon any motion for a grant or charge upon the Public Revenue, whether payable out of the Consolidated Fund, or out of moneys to be provided by Parliament, unless recommended from the Crown.’

“I think this rule should be held in force here, and that, therefore, the petition ought not to be received.”\*

7th May, 1868. *Journal*, p. 297.

\*See further on this subject, post No. 157.



**No. 156.**—Money appropriation. Amendment (to a motion to receive Procedure in the report of the committee of the whole on a Bill) to increase Supply. the amount of a money appropriation beyond the sum recommended by the Governor General ruled out of order.

The *Hon. Sir Geo. Et. Cartier*, having moved that the report of the Committee of the Whole on the Bill respecting the Militia and defence of the Dominion be received, *Mr. Pope* moved in amendment that the Bill be recommitted to consider the following resolutions:—1st “That it is inexpedient and unjust that the Militia staff officers should receive large sums of money for their services, while the battalion and company officers, upon whom the expense and labour of keeping up the volunteers devolve are most inadequately paid for their labour and expense. 2nd. That no money shall be paid to the staff officers for their services until such time, as all the officers of the Force are properly considered, and provision made for their payment upon just and equitable basis, according to their respective duties and rank.” The *Hon. A. T. Galt* then proposed in amendment to this amendment, That the Bill be referred back to the Committee of the Whole, “for the purpose of so adjusting the expenditure for Militia purposes, that the officers of the Service, Militia and Volunteers, when employed as such, may receive such allowance as will distinguish between their respective ranks and that of the men.” The *Hon. L. H. Holton*, having raised the question of order, on *Mr. Galt’s* amendment, the *Speaker* decided as follows:—“that the amendment to the said proposed amendment is not in order, inasmuch as its adoption would involve the expenditure of a greater sum than that recommended by His Excellency’s message.” This

amendment being set aside, *Hon. Sir John A. Macdonald* raised the question of order on *Mr. Pope's* amendment, the *Speaker* decided:—"That the said amendment is not in order; inasmuch as if adopted, it would be an instruction to the committee to consider certain resolutions which could have been considered without any instruction from the House; and moreover that it involves an increase of the Public Expenditure, over that recommended by the message from His Excellency the Governor General."

16th May, 1868. *Journal*, p. 390.

Petitions for aid.

**No. 157.**—A petition praying for the construction of a public work, is not to be accounted as a petition asking for a grant of money—and, therefore, requiring the Governor General's recommendation—but as a Petition asking for legislation on a matter of public concern.

A petition of the *Revd. C. Guillaume*, and others, praying for the construction of the Ottawa Ship Canal, having been presented, an objection to its reception was raised by *Alex. Mackenzie, Esq.*, on the ground that it involved an expenditure of public money. The *Speaker* said:—"That although the prayer of the petition, if granted, might ultimately involve the expenditure of public money, yet, as it related only directly to public works, it might be received, without any violation of the rules." On the recommendation of the Hon. the Minister of Justice, the reception of the petition was delayed till the next sitting.

When the subject was again brought before the House, objection being taken by *Mr. Mackenzie*, that the Petition prays for the removal of "obstructions," which can only be done by a grant of public money,

and is, therefore, contrary to Parliamentary practice, which prohibits the reception of Petitions, praying for grants of money, directly or indirectly, a short debate ensued, after which the *Speaker* decided as follows:—“The reception of this Petition is objected to, because of the rule adopted last Session, when, for the first time, the English practice was introduced into this Chamber. These are the words in which the decision of the Chair was then announced:—Though there is no rule of this House expressly applicable to the question, yet by rule 116 it is ordered, that in unprovided cases, the rules, usages, and forms of the English House of Commons are to be followed: The practice in England has been clearly against the reception of such Petitions, and I find, by a Standing Order of the House of Commons of the 20th March, 1866, it is declared:—‘That this House will receive no petition for any sum relating to Public Service, or proceed upon any motion for a grant or charge upon the Public Revenue, whether payable out of the Consolidated Fund, or out of moneys to be provided by Parliament, unless recommended from the Crown.’ That decision having been given, the House agreed unanimously to adopt it as the rule to be followed in future. The present Petition does not, in my opinion, come within that rule. It is very general in its terms. It sets out a variety of facts with reference to the construction of a work which would, no doubt, involve an expenditure of money, but it concludes with these words:—‘Therefore your Petitioners humbly request that Your Honorable House will take such measures as will cause the obstructions to this navigation to be

" ' removed, and an uninterrupted line, to the full  
 " ' capacity of the leading channel, and the supply of  
 " ' water from the summit level, opened throughout.'  
 " Now, as I take it, this is not a petition asking for  
 " any grant, which would be a charge on the public  
 " exchequer, and I do not think it would be my duty,  
 " sitting in this Chair, to interfere with the right of  
 " the people to Petition this House, unless there is a  
 " clear rule of this House, which would prevent the  
 " Petition, beyond a doubt, from being received. I  
 " cannot so apply the rule, for by express language it  
 " does not cover this case. This is not a Petition  
 " asking for money. It is a petition asking simply  
 " for legislation, and were I to say that the Petition  
 " came within that Rule, I should be opposing my  
 " authority against the rights of the public at large  
 " to approach this House. If it is the pleasure of  
 " the House to exclude Petitions of this class in  
 " future, the proper way would be to adopt a sub-  
 " stantive rule, which would clearly exclude such  
 " Petitions. I consider, therefore, that the Petition  
 " must be received." The said Petition was accord-  
 " ingly received and read; praying that the House  
 " will take such measures as to cause the obstructions  
 " to the navigation of the Ottawa River to be  
 " removed, and an uninterrupted line, to the full  
 " capacity of the leading channel and the supply of  
 " water from the summit level, to be opened through-  
 " out.\*

19th & 20th April, 1869. *Journal*, pp. 22, 23.

Introduction  
of Bills.

**No. 158.**—Bill establishing Dominion Day as a legal holiday was in order, though not a Government measure. It was properly originated upon motion.

*Mr. McConkey* having moved the House into Com-

\*See also No. 164.

mittee of the Whole on his Bill to declare the first of July, Dominion Day, a legal holiday, *Hon. L. H. Holton* appealed to the leader of the House as to whether this Bill should not have been originated by Government in Committee of the Whole. After a short debate, the *Speaker* ruled, that the Bill placed no new burden on the people, and was therefore in order.

10th May, 1869. (*Globe's debates*, p. 41.)

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No. 159.—Debate stopped on a motion to consider a resolution (involving a charge on the public revenue) on a future day. Motion in-  
 Motion declared out of order, not having been recom-  
 mended by His Excellency, Motion in-  
 volving a pub-  
 lic charge

*Joseph Dufresne, Esq.*, having moved that the House do resolve itself into Committee on Monday next, to consider of a resolution respecting the purchase and exportation, by Government, of the depreciated silver coins now in circulation, a discussion ensued, which was stopped by the *Speaker*, who said:—"His attention had been called to a point of order involved in this motion, which should be decided before the discussion went any further. The motion involved a charge upon the public revenue and should originate by message from His Excellency." The motion was then withdrawn.

26th May, 1869. (*Ottawa Times' debates*, p. 77.)

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No. 160.—Amendment, to alter the manner in which a certain money appropriation, recommended by His Excellency's message should be applied, declared out of order. An Amendment previously negatived cannot be again proposed. Amendments to proposed Money grants.

The *Hon John Rose*, having moved the concurrence of the House, to the Resolutions on the Union of

Newfoundland with the Dominion of Canada, Mr. *Blake*, moved an amendment, with regard to Newfoundland public lands, which was negatived. The *Hon. Mr. Wood* then moved an amendment to alter the manner in which the money appropriation recommended by his Excellency's message should be applied. The *Speaker* declared the amendment out of order. The *Hon. Mr. Wood* then moved another amendment, declaring that the Newfoundland public lands should be given to the Local government. The *Speaker* declared this amendment out of order, inasmuch as the House, by rejecting Mr. *Blake's* proposed amendment, had already decided upon the question involved in this motion.

10th June, 1869. *Journal*, p. 219.

Abstract proposition in favour of a money grant.

No. 161.—An abstract proposition in favour of additional public expenditure does not require to be recommended by the Governor before it can be entertained by the House.

The *Hon. John Rose*, having moved the concurrence of the House to resolutions relating to certain financial arrangements with Nova Scotia, the *Hon. Mr. Wood* moved in amendment:—"That in the opinion of this House it is inexpedient to disturb the financial arrangements settled between the Provinces composing the Dominion of Canada, as settled by the British North America Act, in favour of Nova Scotia, without at the same time making provision for increasing in due proportion, and on principles alike just to the Provinces of Quebec and Ontario, the amount of debt allowed by the British North America Act to the late Province of Canada, and the half-yearly payments to the Pro-

“vinces of Quebec and Ontario respectively.” The *Hon. A. T. Galt* contended that this amendment was not in order:—“Inasmuch as it proposes an expenditure in excess of that recommended by His Excellency’s Message, and therefore, under the 54th section of the British North America Act, 1867, it could not be submitted to this House.” The *Speaker* decided as follows:—“I do not lay any stress on the fact that the Committee, having affirmed a certain expenditure, the House is in a measure bound by it. I cannot agree with the hon. member for Sherbrooke in regard to a decision of mine which has been quoted. Last Session, on the 15th May, on a motion for the adoption of the report of a Committee of the Whole on the Militia Bill, the member for Compton submitted a motion, the object of which was unquestionably to increase the pay of the officers of the force. It was not a mere expression of opinion, such as that now before the House, but it was a step towards passing an Act of Parliament appropriating the public funds. In that important respect it differs from the motion now before the House. The motion of the hon. member for Brant, is a mere assertion of an abstract principle. Beyond that, it proposes nothing; it does not propose to take any step in the direction of legislation,—but, on the contrary, as I read the motion, the effect would be, if passed, to prevent concurrence in the resolutions, and to stop the whole proceedings,—so that the question on this proposed appropriation could not be approached again this session, unless a message came down from the Crown recommending such additional expenditure. Therefore, I think the argument unsound, that this amendment involves a question of additional

“public expenditure, and, in my opinion, the motion “is in order.” The amendment was then put and negatived.

12th June, 1869. *Journal*, pp 235, 236.

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Imposition of Duties. **No. 162.**—Resolution imposing duties cannot be proposed by a private member

*F. Jones, Esq.*, having moved a resolution to impose a duty on all American wheat, Indian Corn, &c., imported for consumption into the Dominion of Canada, of 20 per cent. on the estimated value of such grain at the Canadian Port of Entry, the *Speaker* decided;—That the motion was out of order, inasmuch as motions for the imposition of duties, should emanate from the Government

14th June, 1869. *Journal*, p. 242.

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Petitions for aid. **No. 163.**—Petitions praying for a grant of money, or aid, cannot be received, unless recommended by the Crown.

Motions having been made to receive the petitions of the Municipal Council of the County of Kent; of P. G. Fraser and others of the county of Victoria, New Brunswick; and the petition of the Quebec Harbour Commissioners; of Josiah Deacon, of Antigonish, Province of Nova Scotia; of Alex. Campbell, M. P. P., and others of Broad Cove; and of the Municipality of the Township of Ristigouche, and that of the Municipality of the Township of Mann, the *Speaker* decided that:—“They cannot be received, “as the granting of the prayers thereof would “involve the expenditure of public money, which



“cannot be granted without recommendation from  
“the Crown.”

1st, 3rd, 7th, 10th March, 1870. *Journal*, pp. 30, 32, 40,  
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**No. 164.**—Petitions praying for aid, or for a grant of money, for the construction of public works, not received, on the ground that they were not recommended by the Crown.

Motions having been made that the petition of *Wm. Mallough, Reeve*, and others of Ashfield, praying for aid for the construction of a pier at Port Albert, on the East coast of Lake Huron; of the Port Bruce Harbour Company, praying that instead of erecting one large Harbour of Refuge at Rondeau, an annual subsidy may be granted to the several Harbours on the North shore of Lake Erie, provided they are kept in an efficient condition; of the *Rev. L. Aubry*, curé, and others of St. Antoine de la Riviere du Loup, and other Parishes in the County of Maskinongé, praying that a sum of \$6,000, may be granted for deepening the River du Loup at its mouth, be received; the *Speaker* decided, that as these petitions prayed for aid they could not be received, as they were not recommended by the Crown.\*

11th March, 7th and 23rd April, 1870. *Journal*, pp.  
59, 167, 233.

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**No. 165.**—A private Bill, alleged to be at variance with the public notice given thereof, cannot proceed without report from the Standing Orders Committee

The *Hon. Mr. Carling*, having moved that the Bill

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\* See also ante, No. 157.

to amend the Acts of Incorporation of the Great Western Railway Company (as amended by the Select Standing Committee on Railways, Canals, and Telegraph [lines]) be now read a second time, *Mr. Cameron* (Huron) objected that "certain of the provisions of the said Bill, as so amended, were not contemplated in the notice given under the rules of the House, nor in the petition praying for the passing of the said Bill." The *Speaker* decided that the Bill should be referred to the select standing committee on standing orders to report whether the powers proposed to be conferred are in excess of the notice given, or whether they are substantially included in it."

The Order was then discharged and the Bill referred to the Committee on Standing Orders, for the purpose above mentioned.

28th March, 1870. *Journal*, p. 116.

**No. 166.**—Report of a Standing Committee, on a Bill objected to on the ground that it was not sufficiently explicit; objection overruled:  
 Report from Standing Committee on a Bill.

The *Hon. Mr. Carling*, having moved that the Bill to amend the acts of Incorporation of the Great Western Railway Company, reported this day by the committee on Standing Orders, be read a second time, to-morrow, objection was taken by *Mr. Drew*, on the ground "that it does not appear by the Report of the said committee, that they have considered the point referred to them; that the Report does not state whether the provisions of the Bill are in excess of the Notice, or whether they are substantially included in it." The *Speaker* said:—"he thought the Report sufficiently met the object

“ of the reference.—The committee in considering  
 “ the matter, were not necessarily bound by any  
 “ words made use of by him, (Mr. *Speaker*), in  
 “ expressing his opinion as to the scope of the  
 “ reference.” The Bill was accordingly ordered for  
 a second reading, to-morrow.

29th March, 1870. *Journal*, p. 120.

No. 167.—The House cannot instruct a Committee of the Whole to Instructions  
 do that which it is already in their power to do. to Commit-  
 tees.

The Order of the Day being read for the House  
 to go into Committee on the Bill respecting the  
 Election of Members of the House of Commons,  
*Mr. Fergusson* moved:—“That it be an instruction to  
 “ the Committee to provide, that until the Parlia-  
 “ ment shall otherwise provide, the qualification and  
 “ disqualification of voters at Election of Members  
 “ to the House of Commons, shall be regulated by  
 “ the laws enacted by the Local Legislatures of the  
 “ several Provinces within the Dominion for Repre-  
 “ sentatives to the popular branch of their respective  
 “ Legislatures.” Objection was raised by *Mr.*  
*Dufresne* that:—“An instruction cannot be given to the  
 “ Committee to do that which it is already in its  
 “ power to do; also, that section 84, of ‘The British  
 “ North America Act, 1867,’ exactly provides for  
 “ the case contemplated in the hon. member’s  
 “ motion.” The *Speaker* decided that the motion  
 was not in order, “inasmuch as it is not competent  
 “ for the House to instruct the Committee to do that  
 “ which it is already in their power to do.” The  
 House then went into Committee on the Bill.

29th March, 1870. *Journal*, pp. 120, 121.

**Amendments to an address. No. 168.**—Address to Her Majesty. Amendments objected to because they were vague, and irrelevant to the main motion; objections overruled

*Mr. Blake* having moved, "That an humble Address be presented to Her Most Gracious Majesty, praying that she will be pleased to cause a measure to be submitted to the Imperial Parliament providing that the Parliament of Canada shall not have power to disturb the Financial relations, established by the British North America Act (1867) between Canada and the several Provinces, as altered by the Act respecting Nova Scotia," an amendment was moved by *Mr. Archibald*, that all the words after 'that' be left out, and the following inserted; "this House adheres to the decision of the Parliament of Canada at its last session, as embodied in the Act intitled:—'An Act respecting Nova Scotia'" *Mr Blake* objected:—"That the amendment is out of order, inasmuch as it is not relevant to the main motion." *Mr. Speaker* decided:—"That the said proposed amendment is relevant to the main motion." The *Hon. Sir. John A. Macdonald*, then moved in amendment to the amendment:—"That it is the undoubted privilege of Parliament to fix and determine the amount of all expenditure chargeable on the public funds of the Dominion," which was carried on division *Mr. Oliver* then moved to add the following words thereto;—"but this House is of opinion, that no further grant or provision, beyond those made by the Union Act and the Act respecting Nova Scotia, should in future be made out of the Revenues of Canada, for the support of the Government or Legislature of any of the Provinces," which amendment was agreed to on division. The main motion as amended having been put, *Mr. Wood*

moved to add the following words thereto:—"and  
 " that such steps should be taken, as to render im-  
 " possible any such grant or provisions." The *Hon.*  
*J. S. Macdonald* objected to the amendment on the  
 ground:—"that the motion is irregular and cannot  
 be put because of its vagueness." The *Speaker*  
 decided:—"that it is certainly very vague, but he  
 " cannot say that the House cannot express a vague  
 " opinion." The amendment was then negatived,  
 and the main motion agreed to.

30th March, 1870. *Journal*, pp. 122, 127.

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**No. 169.**—A Resolution involving a charge upon the revenue objected Origination  
 to on the ground that it shou'd have originated in committee of money  
 of the Whole, Objection sustained votes.

The *Hon. Mr. Wood*, having moved the adoption  
 of a certain Resolution respecting crown lands, *Mr.*  
*Casault* objected, "That the House cannot consider  
 " the proposed resolution in the manner proposed  
 " by the mover, and that it should have originated in  
 " a committee of the Whole House." The *Speaker*  
 ruled:—"That the objection was good.—He thought  
 " that the Resolution should originate in committee  
 " of the Whole House. Unquestionably the Resolu-  
 " tion involved a charge upon the public purse of  
 " the Dominion. With regard to the point raised by  
 " the Hon. member for Lambton, as to the Dominion  
 " Government having the power of paying this  
 " money out of the Provincial subsidies, the very  
 " circumstance of this House being the trustee, as it  
 " were of the Provinces of Ontario and Quebec,  
 " should make it all the more necessary that every  
 " proper constitutional check should be in-  
 " terposed before any charge should be incurred

“ which would eventually be imposed upon those  
 “ Provinces. He moreover was inclined to think,  
 “ that there should be a message from the Governor  
 “ General, before such a motion could be enter-  
 “ tained.—He therefore declared the motion out of  
 “ order.”

4th April, 1870: *Journal*, pp. 143-145.

Concurrence  
 in Report  
 from a Select  
 Committee.

No. 170.—Concurrence in a Report of a select committee opposed on the ground that its adoption would lead to the imposition of duties; also that the subject matter of the report, relating to Trade, should have originated in committee of the Whole. Both objections overruled.

*Mr. Magill*, having moved, that the report of the Select committee appointed to enquire into and report on the extent and condition of hop growing and Salt interests of Canada, be now concurred in by the House; the *Hon. Mr. Wood* objected that the adoption of this motion would lead to the imposition of duties. The *Speaker* said:—“that he did not think that the adoption of this Report, would, beyond question, involve the imposition of duties.—The recommendation is that the House will adopt such measures as shall tend to relieve this important industry from depressing influences.—It might be argued that this recommendation involves some tax or duty to be imposed, but that result does not follow conclusively; the measures asked for, are measures of relief, so far as the House is informed.—He overruled this objection.” Another objection was then raised by the *Hon. Sir. Geo. Et. Cartier*, that the subject matter of the Report related to Trade, and should therefore originate in committee of the Whole. The *Speaker* decided:—“that a Bill

“relating to Trade, must originate in Committee of the Whole House; but the rule in express terms is confined to Bills only.—He thought that the House might adopt a Report of this general character, relating to Trade, which would leave it uncommitted as to specific measures. He overruled this objection also.”

4th April, 1870. *Journal*, p. 147.

No. 171.—Instructions cannot be given to a commission not yet appointed. Instructions.

*Mr. Masson* (Soulanges), having moved that instructions be given to the commission to be shortly appointed to consider the question of canals for the whole Dominion, to inquire whether it would not be more economical, as well as more advantageous for the Dominion, in so far as regards trade, navigation and defence, not to enlarge the Beauharnois Canal &c., &c., the *Speaker* decided that the motion “is not in order, as it purports to give an instruction to a commission which is not appointed.” The motion was then withdrawn.

4th April, 1870. *Journal*, p. 149.

No. 172.—Bill from the Senate containing clauses respecting public expenditure, and to authorize the incurring of pecuniary obligations, objected to on the ground that such provisions could not originate in the Senate; objection overruled. Powers of the Senate in pecuniary questions

The *Hon. Sir John A. Macdonald* having moved that the Bill from the Senate, intituled :—“An Act to amend the Act relating to Lighthouses, Buoys, and Beacons,” be read a third time; the *Hon. Mr. Holton* called attention to certain clauses of the Bill, which

make dispositions respecting public expenditure, and authorize the incurring of obligations that could not, in his opinion, originate in the Senate. Mr. *Speaker* said:—"that by referring to the authorities it appeared that the Commons had accepted provisions in Bills from the Lords *creating charges* not directly imposed by the Bill, but to be defrayed out of moneys to be provided by Parliament; —but that exception having been taken to this practice, it did not appear to have been continued since 1860. The present Bill fell far short of the class of Bills alluded to. The last clause in the first section, provides that nothing in this Act shall give authority to the Minister to cause expenditure, until previously sanctioned by Parliament; and this overrides the eighth section referred to by the hon. member. No contract could, therefore, be entered into, under that section, which could bind Government and necessitate an expenditure of public moneys, unless it had been previously sanctioned by Parliament. He could not, therefore, sustain the objection of the hon. member for Chateauguay." The Bill was then read a third time and passed.

5th April, 1870. *Journal*, p. 155.

Procedure  
upon Supply  
Votes.

No. 173.—A Resolution proposed, in reference to a Supply Vote under consideration for concurrence by the House,—allowed to be put, though not offered as an amendment. Another motion proposed as a distinct question, before the House had decided upon the preceding Resolution, decided to be irregular.

Upon the reading of a Resolution reported from the Committee of Supply, to defray the expenses of certain Dominion Offices, Mr. *Mackenzie* moved:—"That this House regrets that the Government should



" have deemed it necessary to increase the salaries  
 " of officers in the Public service, at a time when  
 " the utmost economy is absolutely necessary,—  
 " when there is a deficit in the Revenue,—and when  
 " this House has reduced the salaries paid to its  
 " officers." *Mr. Masson*, (Soulanges) then moved :—  
 " That no Public Employees shall receive more than  
 " one salary, and that the word " salary " shall mean  
 " annual or temporary salary, emolument, fee, pay-  
 " ment, compensation, or allowance of any kind  
 " whatsoever." This motion was objected to on the  
 ground that the two motions had no connection  
 with one another. The *Speaker* decided as follows:—  
 " The question is on the motion for granting the sum  
 " of \$6,500,00, for the Dominion Offices, New Bruns-  
 " wick, and the Hon. Member for Lambton moves :—  
 " " That this House regrets that the Government  
 " " should have deemed it necessary to increase the  
 " " salaries of Officers in the Public Service, at a time,  
 " " when the utmost economy is absolutely neces-  
 " " sary,—when there is a deficit in the Revenue,—  
 " " and when this House has reduced the salaries  
 " " paid to its Officers."

" This latter motion I must treat as a distinct sub-  
 " stantive proposition.—It is not offered in amendment  
 " to the resolution. The House is not asked to reduce  
 " or recall that vote; it is not proposed to refer the  
 " resolution back to the Committee, but is a sub-  
 " stantive proposition, and as proposed to the house  
 " I must treat it *per se*. Then the motion of the hon.  
 " member for Soulanges, who has moved an amend-  
 " ment respecting salaries, I think is not pertinent to  
 " the motion of the honorable member for Lambton,  
 " and I think cannot be said to be in order.—It seems  
 " to me to be most unreasonable, most illogical, that a

“ general proposition, such as that of the honorable member for Lambton, should be amendable by the proposition of the hon. member for Soulanges. The latter is not in its form proposed as an amendment; it does not propose to strike out, or to add anything to the motion. It is a separate proposition standing alone, and quite distinct from the other. Therefore, I decide that it is not in order.” *Mr. Mackenzie's* motion was then put and negatived on division.

21st April, 1870. *Journal*, p. 212.

Notice of motion.

**No. 174.**—Motion of which no notice had been given, to refer to a standing committee, a return to an address, declared to be out of order, although the House had debated the motion for some time.

*Mr. Mackenzie*, having moved that the return to an address of the 28th March, shewing an account in detail of the amount originally advanced by way of loan, by the late Province of Upper Canada, in connection with the Oakville Harbour, &c., be referred to the Committee on Public Accounts, while the debate was going on, the *Hon. J. S. Macdonald* objected to the motion being put, on the ground that no notice of it had been given. The *Hon. Mr. Tupper* then asked the *Speaker* whether it was not too late to take the objection, in consequence of the debate having continued for some time? The *Speaker* decided as follows:—“ My attention being drawn to the fact that no notice has been given, I must at once declare the motion out of order.”

23rd April, 1870. *Journal*, p. 233.

**Amendments. No. 175.**—Amendment objected to, on the ground that no notice thereof had been given, objection overruled because the debate thereon had been continued over two sittings.

The debate on the third reading of the *Hon. Mr.*

*Abbott's* Bill respecting the Canada Central Railway Company, and the *Hon. Mr. Chauveau's* proposed amendment thereto, having been resumed, *Dr. Grant* objected, that the amendment was not in order, inasmuch as one day's notice had not been given of it pursuant to the 68th Rule of the House. The *Speaker* decided:—"That as it had been already debated upon during two previous sittings, it was too late to take the objection." The amendment was then put and negatived.

25th April, 1870. *Journal*, p. 238.

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**No. 176.**—A money Bill cannot be amended by altering a public charge Amendment of a money Bill. therein contrary to the purpose recommended by the Crown.

The *Hon. Sir F. Hincks*, having moved the third reading of the Bill for better securing the efficiency of the civil service of Canada, by providing for the Superannuation of persons employed therein in certain cases; *Mr. Godin* moved in amendment, that the fund shall be a special fund, and administered by the Finance Department of the Dominion; that no Public Officer shall benefit by it unless he has contributed towards that fund during at least five years, and that the widows and orphans of the employees, shall also benefit by the fund &c. &c. An objection was taken to the amendment on the ground that by the section 54 of the Imperial Act 30 Victoria, Chapter 3 it is enacted, that:—"It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the Public Revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by Message of the Governor General in the Session in which

“such Vote, Resolution, Address, or Bill is proposed; and that the subject matter of the said motion had not been recommended by such Message.”

Mr. *Speaker* decided as follows:—“This amendment proposes a substantial change from the proposal recommended in the Message of His Excellency the Governor General of the 2nd May instant. It involves a public charge, different from that which has been so recommended to the House, and though I have some doubt on the question, I shall decide that the amendment is out of order.”  
6th May, 1870. *Journal*, p. 303.

Bill relating to Trade. No. 137.—Second reading of a Bill to limit the rate of interest, objected to, on the ground that it was a Bill relating to Trade and should have originated in Committee of the Whole. Objection overruled.

Question once disposed of not renewable.

Further objection taken that the same question had already been passed upon during the present session. This objection sustained.

Mr. *Ross* (Dundas), having moved the second reading of a Bill to limit the rate of interest, it was objected to, on the ground that the Bill should have originated in Committee of the Whole, inasmuch as it related to Trade. The *Speaker* said:—“I still entertain the view I expressed some time ago; in defining the term ‘Trade,’ as used in Rule 41. I then defined the word as follows:—‘I hold that the term ‘Trade’ does not, in its general and popular sense, apply to Insurance. Trade means buying and selling, importing and exporting goods to market. Banking, railways, navigation, and telegraphs, all assist Trade and are its auxiliaries but are not branches of Trade in the popular sense, yet, certainly the first, ‘Banking,’ is more intimately connected with Trade than Insurance.”

“ ‘ I do not find that Bills relating to these subjects  
“ ‘ must necessarily be first considered in Committee  
“ ‘ of the Whole ; sometimes it may have been done,  
“ ‘ but the practice is not uniform, and I see no rule  
“ ‘ which requires it.’ I have to consider that this  
“ is an objection restraining this House in its powers,  
“ and the rule under which the objection is taken  
“ ought not to be carried by any implication one  
“ step farther than its words clearly indicate. There-  
“ fore, I think I am right in a strict definition of  
“ the rule, in holding that it does not apply to in-  
“ terest on money. I find that one of my predeces-  
“ sors, Mr. Speaker Wallbridge, gave a decision in  
“ precisely the same spirit. I have further to say  
“ that, so far as the hasty search I have been able to  
“ make can permit, I understand that from the year  
“ 1851 there has been no Bill introduced into the  
“ House by resolutions in Committee on the subject  
“ of Interest until this present Session, so that we  
“ have no practice of our own in that direction. I  
“ see that in England the Bill for regulating the  
“ rate of interest in 1839, and which virtually  
“ abolished the Usury Laws and made money free  
“ was introduced on motion, without going into  
“ committee in the first instance. So that in accord-  
“ ance with the spirit in which I formerly defined  
“ the term ‘ Trade,’ and in accordance with the pre-  
“ cedent which I have mentioned, I hold that the  
“ hon. member can proceed with his Bill.” Then  
*Mr. Mills* objected to the second reading of the Bill,  
on the ground that the same question had already  
been brought before the House and postponed:—“till  
“ this day three months, and could not be proposed  
“ at the present time.” The *Speaker* decided:—“That  
“ substantially the present question is the same and

“cannot be put.” Whereupon the order for the second reading of the Bill, was discharged.\*

6th & 11th May, 1870. *Journal*, pp. 313, 314, 348.

Items of Supply for similar service

**No. 178.**—Amendment, to refer back to the Committee of Supply, for re consideration an item of the Estimates, which had been reported from this Committee. Objection taken that the said item was similar to another item for a like service, included in the supplementary Estimates, and that one or other of these items must be withdrawn; objection overruled

The order of the day being read, for resuming the adjourned debate on the amendment which was, on Thursday, the 21st day of April last, proposed to be made to the question, that this House doth concur with the committee in the following resolution, viz:— That a sum not exceeding one million three hundred thousand dollars be granted to Her Majesty, for opening communication with, establishing government in, and providing for settlement of the North-West Territories (Revote) for the year ending 30th June, 1871, and which amendment was, that the words—“Provided no portion of the said sum or of “the Dominion funds, shall be expended in employing Troops, or the Militia of the Dominion, for the “purpose of regaining by force of Arms the possession of said Territory, nor until the peaceful possession of the same shall have been secured to this “Dominion according to, and under the terms of, “the agreement entered into between the Imperial “authorities and the Government of Canada,” be added at the end of the Resolution.

The *Hon. Mr Dunkin* moved, in amendment to the amendment, “that the said Resolution be re-

\*See also ante Nos. 51, 111.

“ferred back to the Committee of Supply, for  
 “re-consideration in connection with the Message of  
 “His Excellency the Governor General, transmitting  
 “supplementary estimates for the year ending 30th  
 “June, 1870, and with such estimates presently  
 “under reference to said Committee.”

The *Hon. Mr. Holton* raised the point of order, that inasmuch as this was a Revote of an appropriation of last year, and the Committee of Supply had already before it a second Message, accompanying the supplementary Estimates, recommending a Revote in another form, one or other must be withdrawn. *Mr. Speaker* decided as follows:—“I do not agree with the *Hon. Member for Chateauguay*, in his objection to the motion. The House can know nothing of what goes on before the Committee of Supply until it reports. The Resolution which stands for concurrence, and which is proposed to be referred back to that committee may, or may not, in point of fact, be intended for the same sum of money as that in the supplementary estimates which have also been referred to the same Committee. If two Resolutions are reported for two distinct sums, the House can then deal with the question by refusing to concur in one or other of them.” Whereupon *Mr. Dunkin's* amendment was put and agreed to.

10th May, 1870. *Journal*, pp. 339, 340.

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No. 179.—Petition, asking for a grant of public money and not recommended by the Crown, cannot be received. Petitions for aid.

On motion that the petition of Colonel John Sewell, superannuated postmaster of the city of

Quebec, praying for the payment of certain arrears of salary, be now received, Mr. *Speaker* ruled:—  
 “That as this petition prays for aid, it cannot be  
 “received.”

20th Feb., 1871. *Journal*, p. 18.

Petitions for  
aid

No. 180.—Petitions for public works, that would necessitate an appropriation of public money, not being recommended by the Crown, cannot be received

Motions having been made, that the petition of Thos. Killam, and others, praying for the erection of a Fog Whistle on Brier Island,—and the petition of David A. Saunders, and others, praying for the erection and maintenance of a beacon or lighthouse at or near the entrance of Port Hubert, &c., &c.,—be now received, Mr. *Speaker* ruled:—“That  
 “these petitions cannot be received, as the granting  
 “of the prayers thereof would involve the expenditure of public money.”

3rd March, 1871. *Journal*, p. 44.

Resolutions on  
pecuniary  
questions.

No. 181.—Resolutions, not recommended by message from the Crown, recommending that the debt of the former Province of Canada be assigned to the Dominion, and that compensation be given to the Provinces of New Brunswick and Nova Scotia, declared out of order.

The *Hon. Mr. Dorion* having moved:—“That this  
 “House will, on Wednesday next, resolve itself into  
 “a committee to consider the following Resolu-  
 “tions:—

“1st. That the division between the Province of  
 “Ontario and the Province of Quebec, of the surplus  
 “of the debt of the former Province of Canada, over  
 “and above the sum of \$62,500,000, assigned to the



“ Dominion of Canada by the British North America Act, presents great difficulties, which it has not hitherto been possible to overcome in a satisfactory manner.

“ 2nd. That the difficulties, resulting as well from the uncertainty as to the amount of the debt to be divided, as from the absence of an acceptable base for the making of such division, and that of the assets remaining in common to those two Provinces, threaten to give rise to serious embarrassment.

“ 3rd. That for the avoidance of such difficulties, the debt of the former Province of Canada should be assigned entirely to the Dominion, as though it had been so from the first, with compensation to the Provinces of New Brunswick and Nova Scotia for the share which those Provinces would have to pay upon the surplus of that debt.

“ 4th. That an humble address be presented to Her Majesty, praying Her to be pleased to recommend that the British North America Act, should be amended in accordance with these Resolutions.”  
The *Hon. Sir Geo. Et. Cartier* objected:—“ That the Resolution cannot, under the provisions of the 54th section of the British North America Act, 1867, be considered by the House, unless recommended by Message from the Crown.”

Mr. *Speaker* decided as follows:—“ The motion proposes that an Address be presented to Her Majesty, praying Her to recommend that the British North America Act be amended, so that the Public debt of the Dominion be increased, and that compensation be made to the Provinces of New Brunswick and Nova Scotia.

“ In my opinion this motion cannot be entertained, it being in contravention of the 54th section of the Imperial Act for the Union of British North

“ America. In that section it is provided that this  
 “ House shall not adopt any Vote, Resolution,  
 “ Address, or Bill, for the appropriation of any part  
 “ of the Public Revenue, &c., &c., to any purpose  
 “ that has not been first recommended by Message  
 “ of the Governor General.

“ The contention is, that the proposed appropria-  
 “ tion being beyond the power of the Parliament of  
 “ Canada, this provision of the statute cannot there-  
 “ fore apply.

“ In its literal construction it does apply to the  
 “ motion, and certainly it seems to me to the full as  
 “ necessary in a constitutional sense, to interpose  
 “ the check of a message from His Excellency,  
 “ under the responsibility of His Ministerial Advisers,  
 “ before adopting an Address which may be followed  
 “ by Legislation, imposing a burthen on the people  
 “ by a Parliament and Ministers, owing it no res-  
 “ ponsibility, as in the case of a Bill or Motion for  
 “ the appropriation of money within our direct  
 “ control.

“ For these reasons, the Motion, in my opinion, is  
 “ not in order.”

*6th March, 1871, Journal, p. 50.*

Procedure on  
 an Address on  
 a money ques-  
 tion.

**No. 182.**—Address to Her Majesty pledging the House to an in-  
 crease to the public debt, for a certain purpose, if the  
 same should be recommended by the Crown, declared  
 out of order, because it was not first submitted in Com-  
 mittee of the whole House

The *Hon. Mr. Dorion* moved:—“ That an humble  
 “ Address be presented to Her Majesty, representing  
 “ that an equitable and satisfactory division of the  
 “ surplus debt of the late Province of Canada,

“ between the Provinces of Quebec and Ontario, is  
 “ not likely to be effected in the manner provided by  
 “ the British North America Act, 1867, and that the  
 “ difficulties which beset the question have been  
 “ greatly aggravated by the award rendered by the  
 “ Arbitrators appointed by the Dominion Government  
 “ and by the Government of Ontario, in the absence  
 “ of any Arbitrator for the Province of Quebec, which  
 “ is regarded by the Government and the people of  
 “ Quebec as illegal and unjust, and praying that Her  
 “ Majesty be pleased to recommend the passing of an  
 “ Act by the Imperial Parliament, so amending the  
 “ British North America Act as to authorize the Par-  
 “ liament of Canada to deal by Legislative enactment  
 “ with all questions connected with the said surplus  
 “ debt.”

*Hon. Sir Geo. E. Cartier* moved in amendment, that all the words after “ That,” in the original motion; be left out, and the following inserted instead thereof:—“ the validity of the award rendered by the Arbitrators appointed by the Dominion Government and by the Government of Ontario in the absence of any Arbitrator for the Province of Quebec, being contested by the Province of Quebec; and the Government of Canada having come to the conclusion not to act on such award until its validity shall have been determined by a competent judicial tribunal, this House refrains from expressing an opinion on the award so rendered.”

*Hon. Mr. Chauveau* moved in amendment to the said proposed amendment, that all the words after “ That” in the proposed amendment be left out, and the following substituted in lieu thereof:—“ it is highly desirable that the difficulty now existing

“ between the Provinces of Quebec and Ontario  
 “ concerning the divisions and adjustments of the  
 “ debts, liabilities, credits, properties and assets of  
 “ Upper and of Lower Canada, provided for by the  
 “ British North America Act, be speedily set at rest,  
 “ and that this House will give its most favorable  
 “ consideration to any measure to be introduced by  
 “ the Government, having this object in view, and  
 “ involving any aid on the part of the Dominion  
 “ commensurate with the importance of the object  
 “ itself, and with our resources; due regard being  
 “ had to the rights of the other Provinces.”

And objection being taken by *Mr. Mills*, Member for the Electoral District of Bothwell, that this motion is not in order, inasmuch as it involves an appropriation, and asks the House to commit itself to an expenditure of money, which cannot be done without a Message from His Excellency the Governor General, *Mr. Speaker* decided:—“ That the said motion is out of order.”

*Hon. Mr. Holton* then moved in amendment to the proposed amendment moved by *Hon. Sir George Et. Cartier*, that all the words after “ That” in the said amendment be expunged, and the following inserted instead thereof:—“ this House regrets that His Excellency the Governor General has not been advised to recommend to this House to adopt an Address to Her Majesty the Queen, representing that the division between the Province of Ontario and the Province of Quebec, of the surplus of the debt of the former Province of Canada, over and above the sum of \$62,500,000, assigned to the Dominion of Canada by the British North America Act, presents great difficulties, which it has not hitherto been possible to overcome in a satisfactory manner; that the

“difficulties, resulting as well from the uncertainty  
“as to the amount of the debt to be divided, as  
“from the absence of an acceptable base for the  
“making of such division, and that of the assets re-  
“maining in common to those two provinces,  
“threaten to give rise to serious embarrassment,  
“and, that for the avoidance of such difficulties,  
“the debt of the former Province of Canada should  
“be assigned entirely to the Dominion, as though  
“it had been so from the first, with compensation  
“to the Provinces of New Brunswick and Nova  
“Scotia, for the share which those Provinces would  
“have to pay upon the surplus of that debt, and  
“praying Her Majesty to be pleased to recommend to  
“the Imperial Parliament the passage of an Act to  
“amend the British North America Act in accordance  
“with such representation.” And a debate arising  
thereon,—On motion of *Hon. Sir Geo. Et. Cartier*, the  
House adjourned.

On the 13th of March, Mr. *Speaker* made the following statement to the House:—

“I observe that it is entered on the Journal of  
“the 9th of March, that upon objection taken  
“by the Honorable Member for Bothwell, the  
“motion of the Honorable Member for Quebec  
“County, was declared out of order, for the reason  
“there alleged. I desire to correct that entry. The  
“motion was out of order, in my opinion, not  
“because it proposed an appropriation of public  
“money, within the meaning of the 54th section of  
“the British North America Act, and should have  
“been preceded by Message, but because it involved  
“an increase of the public debt, and should, there-  
“fore, have been first considered in Committee of  
“the Whole.

“ I am aware that it is doubted whether it is a correct rule of Parliamentary practice, that every abstract proposition which, if acted on, would increase the public debt of the country, should be first considered in Committee, but my opinion on the point has been expressed on two or three occasions, and I shall so continue to decide, unless the House should think proper to express a contrary opinion. This rule, however, being self-imposed, may be enforced or relaxed, as the House shall determine. But the Constitutional rule, contained in the 54th section of the Imperial Act, is one that, being absolutely binding, should be neither extended nor restrained by implication but should, at all times, be most guardedly considered by the House. I desire, therefore, to correct the error on the Journal, so that the precedent shall not be understood as having any relation to the 54th clause of the Constitutional Act, 1867.”

*Ordered*, That Mr. *Speaker's* decision, as above, be entered upon the Journals of this House.

Afterwards, *Mr. Holton's* amendment was negatived, and *Sir Geo. Et. Cartier's* amendment agreed to, on division.

9th and 13th March, 1871. *Journal*, pp. 62, 72.

Declaratory  
Bill on a  
money ques-  
tion.

Bill to increase  
taxation.

**No. 183.**—Bill objected to, on the ground that it involved an additional charge on the people, and therefore, should have originated in Committee of the Whole, and have been proposed by a Minister. Objection overruled on the ground that the Bill was merely declaratory.

But no Bill to increase taxation ought to be entertained unless recommended by the Crown.

The second reading of a Bill to remove doubts as

to the liability to stamp duties of Premium Notes, taken or held by Mutual Fire Insurance Companies, having been moved, an objection was taken by the *Hon. L. H. Holton*, on the ground that the Bill must, under the 54th section of the British North America Act, be first recommended by Message from the Crown, and also that the Bill should have originated in Committee of the Whole. Mr. *Speaker* having expressed a desire to reserve his decision, the debate was adjourned on motion of the *Hon. Sir Geo. Et. Cartier*.

On the 20th of March, Mr. *Speaker* gave his decision on the point of order, as follows:—"The Bill is to remove doubts, and declares that certain Notes shall be deemed to be Promissory Notes, within the meaning of the Act, 31 *Victoria*, Chap. 9; and shall be subject to the duties thereby imposed—and it provides that all such Notes heretofore given and not stamped shall be made valid by a double stamp. There being no appropriation of money proposed, there need be no recommendation from the Crown; and the objection rests on the ground that as it involves an additional charge on the people, the Bill should have originated in Committee of the Whole, and should, moreover, have been proposed by a Minister.

"It appears to me that the Bill is merely declaratory, and that it involves no new charge except in so far as the double stamp duty may effect that purpose. On looking carefully at the 31st *Vict.*, Cap. 9, I find by Section 7, that the Governor in Council may declare that any kind or class of instruments, as to which doubts exist, shall be chargeable with any and what duty under the Act, and by Sections 10, 11 and 12, provisions are

“ enacted to render valid Notes in the hands of  
 “ innocent holders and notes passed to third parties.  
 “ The provision as to double stamps in the present  
 “ Bill is merely an extension of the former Act in  
 “ its remedial clauses, to the class of notes here  
 “ referred to, and which are now declared to be  
 “ within that Act. The Bill is one which,  
 “ therefore, in my opinion, may be properly intro-  
 “ duced and proceeded with by a private member.

“ The question generally whether private mem-  
 “ bers may introduce and proceed upon measures  
 “ relating to taxation, which was discussed in the  
 “ course of the argument, is one of very grave im-  
 “ portance, and, though not needful to the decision  
 “ of the present objections, I think it proper to say  
 “ a few words upon it to the House. Instances may  
 “ undoubtedly be found in the Journals of the  
 “ English House of Commons, of Bills and motions  
 “ by private members to increase taxation, some of  
 “ which have passed unchallenged, whilst in other  
 “ cases, the indirect assent of a Minister has been  
 “ deemed sufficient. Recently, however, (in 1869) a  
 “ high authority, *Sir Thomas Erskine May*, stated  
 “ before a Joint Committee of the two Houses of  
 “ Parliament, that ‘no private Member is permitted  
 “ ‘to propose an Imperial tax upon the people—it  
 “ ‘must proceed *from* a Minister of the Crown or be  
 “ ‘in *some other form* declared to be necessary for  
 “ ‘the public service.’

“ I think the House may properly accept of this  
 “ as the correct construction of the Rules regulating  
 “ the introduction of similar measures. The motion  
 “ or Bill should either be introduced by a Minister  
 “ or if initiated by a private member (a practice  
 “ which should not be encouraged) a Minister  
 “ should assume the responsibility of it by signify-



“ing the consent of the Government to its being  
 “entertained by the House. If the House agree  
 “with me as to the desirability of adopting *this*  
 “constitutional restriction, it will become my duty  
 “to enforce the observance of the Rule hereafter.”\*

The Bill was then read the second time, and committed to a Committee of the Whole on Wednesday next.

16th and 20th March, 1871. *Journal*, pp. 96, 112, 113.

**No. 184.**—An Amendment to add words to the main question, having Amendments.  
 been affirmed, those words, cannot be struck out, by a subsequent amendment.

The House having considered in committee of the Whole, a Bill to amend the acts relating to duties of customs, the *Hon. Sir Francis Hincks* moved that the Bill be read a third time to-morrow; the *Hon. L. H. Holton*, moved in amendment that the Bill be now re-committed to a committee of the Whole House, for the purpose of so amending the same as to repeal the duties on coal, coak, wheat and flour; the *Hon. Mr. Blanchet* then moved in amendment to the said amendment that the words, “and also Salt, Peas and Beans, Barley, Rye, Oats, Indian Corn, Buckwheat, and all other grain, Indian Meal, Oat Meal and Flour, or Meal of any other grain,” be added at the end thereof; this amendment was agreed to on division, whereupon *Mr. Colby* moved, in further amendment to *Mr. Holton's* amendment as amended to substitute for the same a resolution, that:—“It is inexpedient during the present session of Parliament to make any alteration in the existing duties on Coal, Coak, Wheat, Flour, Salt, Peas and Beans, Barley, Rye, Oats,

\*See *Post*, No 194.

“Indian Corn, Buckwheat.” The *Hon. L. H. Holton* objected to this amendment, on the ground that it proposes to strike out certain words which the House has already decided shall form part of the question. The *Hon. the Speaker* decided as follows:—

“The point of order is well taken. It seems conclusively so by English authority, and there is good reason for it. The House has pronounced its decision upon the proposition that salt and other articles shall form part of the question to be submitted to the House, and now the House is asked to say that they shall be struck out of the question.”

“This would be a contradiction and is clearly out of order.”

*22nd and 23rd, March, 1871. Journal, pp. 131, 132, 133.*

Points of  
Order in Com-  
mittee.

**No. 185.**—The Chairman of a Committee of the Whole should decide points of order in committee.

The House being in committee of supply, *Mr. McDonald*, Member for Lunenburg having referred during the debate to certain facts which the *Hon. Mr. Holton*, member for Chateauguay, submitted, were irrelevant to the question; and the latter gentleman having called upon the Chairman to leave the chair, so that *Mr. Speaker* might decide the point of order; he did so, and *Mr. Speaker* decided that under the Rules, the Chairman should himself decide points of order in Committee.

*24th March, 1871. Journal, pp. 142, 143.*

**No. 186.**—An Amendment is not out of order because it is substantially Amendments, the same as the original motion if it proposes to omit considerable matter of recital contained in the original motion.

*Mr. Blake*, having moved that this House do now resolve itself into a committee, to consider the following resolutions:—

1st. “That the sense of the Houses of the respective Legislatures of the Provinces of Canada, Nova Scotia and New Brunswick was taken as to, and formed the basis of the Imperial Legislation under which the said Provinces were federally united into the Dominion of Canada.

2nd. “That it was by the British North America Act, (1867) enacted that it should be lawful for the Queen by and with the advice of the Privy Council on Addresses from the Houses of Parliament of Canada, to admit Rupert’s Land and the North Western Territory, or either of them, into the Union by the said Act created, on such terms and conditions as the Queen should think fit to approve subject to the Provisions of the said Act; and that the provisions of any such Order in Council should have effect as if they had been enacted by the Parliament of the United Kingdom.

3rd. “That Addresses have been passed by both Houses of the Parliament of Canada touching the admission of the said Territories into the Union, and Canada has paid large sums, and incurred large liabilities in order to accomplish such admission, and an Order in Council has been made by the Queen for such admission.

4th. “That the Parliament of Canada has assumed to exercise jurisdiction over the said Territories and to make provision for the erection of part of the said

“ Territories into the Province of Manitoba, and for  
“ the establishment of federal relations between the  
“ said Provinces and Canada.

5th. “ That it has been made to appear to this  
“ House that the Canadian Government has requested  
“ the Government of the United Kingdom to submit  
“ to the Parliament of the United Kingdom a Bill  
“ touching the said North Western Territories or  
“ some part thereof; and that the Government of the  
“ United Kingdom in consequence of such request  
“ has proposed to the Canadian Government to sub-  
“ mit a Bill, a draft of which it has forwarded to the  
“ Canadian Government.

6th. “ That in the opinion of this House the sense of  
“ both Houses of the Parliament of Canada should be  
“ taken as to, and should form the basis of, such pro-  
“ posed Legislation.”

The *Hon. Sir Geo. Et. Cartier* moved in amend-  
ment, that all the words after “ That,” to the end of  
the question, be left out, and the words “ this  
“ House, after full consideration, passed the Act to  
“ establish and provide for the Government of  
“ the Province of Manitoba.

“ 2nd. That the said Act has since received the  
“ sanction and approval of the Imperial Govern-  
“ ment.

“ 3rd. That for the removal of doubts as to certain  
“ provisions of the said Act, the Government of  
“ Canada have requested the Imperial Government  
“ to pass an Act in the Imperial Parliament, con-  
“ firmatory of the said first-mentioned Act.

“ 4th. That the Imperial Government have agreed  
“ to introduce a Bill to the aforesaid effect, and  
“ declaring also the power of this Parliament to create  
“ other Provinces in the vast territory of the North

“ West, now forming part of the Dominion, and to  
“ give them constitutions on the same footing as to  
“ guarantees of permanence and otherwise, with the  
“ constitutions of the old Provinces.

“ 5th. That a draft of the said proposed Act has  
been communicated to this House.

“ 6th. That the provisions of the said draft Act  
“ meet the approval of this House, and are in con-  
“ sonance with the will of this House, as expressed  
“ in the most formal manner in the said Act relating  
“ to Manitoba,” inserted instead thereof.

The *Hon. A. A. Dorion* then moved in amendment to the said proposed amendment, that all the words after “ That,” to the end thereof, be left out, and the words “irrespective of the merits of the measures proposed by the Government of Canada to be submitted to the Imperial Parliament for the purpose of confirming certain Canadian Legislation, depriving the Parliament of Canada of certain existing powers, and altering the British North America Act, 1867, this House would be wanting in its duty, if it did not express its decided opinion that no such Imperial Legislation should be asked for by the Government of Canada, except after the details of such proposed legislation shall have been submitted to both Houses of the Parliament of Canada for their judgment, and Addresses of such Houses to the Queen, praying for such legislation shall have been passed,” inserted instead thereof.

*Mr. Harrison* having objected to this amendment on the ground that it is, in effect, the same as the original motion, and so cannot be moved as an amendment to the amendment to the original motion, *Mr. Speaker* decided as follows:—“ The

“amendment proposed by the *Hon. Mr. Dorion* is in order. It proposes to the House a resolution which is substantially the same as that involved in the original motion, but it omits considerable matter of recital both of fact and law, and in that respect, I think the proposition is one which the hon. member may propose as an amendment. He may say very properly, as he does say, that he has no desire to commit the House to the recitals which form a part of the original motion. I think the motion is, therefore, in order.”

*23rd and 27th March, 1871. Journal, pp. 136, 138, 145, 146.*

Bills at variance with other Bills.

No. 187.— A Bill at variance with another Bill previously passed by the House, cannot be entertained during the same session.

A Bill respecting Insolvency having been passed and sent to the Senate for concurrence, during the session, *Mr. Colby* proposed the second reading of another Bill to repeal the Insolvency Laws; on motion to refer the Bill to a Committee of the Whole, *Mr. Crawford* raised a point of order as to whether this Bill to repeal the Insolvency Laws, could now be entertained, when a Bill to amend the said Laws had been already passed by the House of Commons, and was now before the Senate. *Mr. Speaker* ruled:—“That the House had already passed upon this question, in the Bill now before the Senate, amending the Insolvency Laws, and that no measure could now be entertained at variance with the former one.

“The present Bill proposes to repeal all the

“ existing Insolvency Laws, and is, therefore, at  
 “ variance with the previous decision of the House.  
 “ The Bill cannot be proceeded with during the  
 “ present session.”\*

3rd April, 1871. *Journal*, pp. 209, 210.

No. 188.—Notice of motion not required in a case of urgency. But it is for the House to determine this matter. Notice of motion in urgent cases.

The *Hon. Mr. McDougall* (Lanark), having moved that *Walter Ross, Esq.*, member of this House, having stated, in his place, that there were rumors that *Pierre Delorme, Esq.*, who, on the 5th day of April inst., was introduced and took a seat in this House, as member for Provencher, in the Province of Manitoba, had been concerned in the rebellion against the authority by law established in the Hudson's Bay Territories, which was lately quelled by Her Majesty's Troops, and, moreover, that he was directly implicated in the murder of one Thomas Scott, a British subject, by persons in arms against the authority of the Crown in that Territory, and that the said *Pierre Delorme, Esq.*, having stated in his place, that the said charges were utterly unfounded and untrue: [it be] Resolved, that a Select Committee be appointed to enquire into the truth of these allegations, and if the charges should be sustained, to report the proceedings which ought to be taken in order to relieve this House from the disgrace and dishonor of receiving amongst its members, any one guilty of such offences: the said committee to consist of the *Hon. Messrs. Morris and Dorion, Messrs. Street and Macdonald* (Glengarry) *The Hon. Mr. Cameron* (Peel) and *Messrs. Blake and Gibbs* ;

\* See Post No. 198.

The *Hon. Sir Geo. Et. Cartier* objected that notice of such a motion was required.

*Mr. Speaker*, after citing "May," on the subject, said :—" That it rested with the discretion of the House, as to whether notice of this motion should be given or not. If the House believed that this was a case of such urgency that it should at once be entertained and disposed of, the House may say that the absence of notice should not bar progress in the matter ; but, on the other hand, the House may consider the motion of so grave a character as to require time for consideration. I think it rests with the House."

10th April, 1871. *Journal pp. 249, 250.*

**No. 189.**—A claim for damages against the Government may be referred to a select Committee; but if their Report should recommend the payment of money, it cannot be concurred in by the House, unless upon the recommendation of the Crown.

Committees to consider claims against Government.

*Mr. Currier* having moved, that the return to an Address for copies of all correspondence between the Department of Public Works and George Sterling, respecting a claim for damages against the Government by the said Sterling, be referred to a select committee, and to report thereon ;

*Mr. Speaker* said, that his attention had already been called to this motion. He ruled :—" That it does not appear to be objectionable to refer a claim of this nature to a select committee. Should their Report recommend a payment of money, this House will refuse its concurrence, unless the commendation from the Crown is announced by a Minister. The motion is I think in order."

10th April, 1871. *Journal, p. 254.*



**No. 190.**—A proposition which has been submitted to the House, and Amendments rejected, in the shape of an amendment, may be afterwards moved as a substantive question, in the same session.

The *Hon. Sir Geo. Et. Cartier*, having moved that this House will immediately resolve itself into a committee to consider the following Resolution:—  
 “ That the Railway referred to in the Address to Her Majesty concerning the Union of British Columbia with Canada, adopted by this House on Saturday, the 1st April instant, should be constructed and worked by private enterprise, and not by the Dominion Government; and that the public aid to be given to secure that undertaking should consist of such liberal grants of land, and such subsidy in money, or other aid, not increasing the present rate of taxation, as the Parliament of Canada shall hereafter determine.”

The *Hon. Sir Geo. Et. Cartier*, a member of the Hon. the Privy Council, then acquainted the House, That His Excellency the Governor General, having been informed of the subject matter of the said motion, recommends it to the consideration of the House. Whereupon *Mr. Mackenzie* objected that this motion was not in order, inasmuch as the House had already during the present session, passed upon a motion in terms similar thereto: (by negating an amendment proposed by *Sir A. T. Galt*, the member for Sherbrooke, to the motion for the second reading of the Address to Her Majesty respecting the admission of British Columbia into the Union.)\*

The Hon. the *Speaker* ruled:—“ That his opinion was, that if the two resolutions which have been offered to the House—the Resolution of the member for Sherbrooke, and that of the hon.

\* See Journal, p. 202.

“ Minister of Militia (*Sir G. E. Cartier*) were precisely the same word for word, it would still be open to the House to consider the motion of the Minister of Militia at this stage. The reason of that is this:—The motion of the hon. member for Sherbrooke was offered by way of amendment, as an alternative proposition to the House. The House had its option to adopt either the main motion, which was to read the Address a second time there and then, or to adopt the motion of the hon. member for Sherbrooke, which was to postpone the reading of that Address to a future day, and to resolve certain things. The House, in negating the motion of the Hon. member for Sherbrooke has not passed upon the resolution contained in that motion. It has simply chosen to say, ‘we will now read the Address a second time, and we will not pass upon the Resolution offered by way of amendment at the present time.’”

“ I think we have only to consider the form used in the House of Commons in England in putting questions, to see what is the true effect of the vote on the motion proposed by the hon. member for Sherbrooke. Had the question been put as it would have been put in England,—‘that all the words proposed to be omitted stand part of the question, that is, that the main motion should be voted upon yea or nay,’—the House would not appear to have passed upon the alternative proposition. But though we may vary our form of question, our votes must have no different effect than if taken in the English House of Commons.

“ Therefore according to my view, if the two motions had been precisely the same, it would

“ have been still open to the House now, to consider  
 “ and pass upon the motion of the Hon. the Minister  
 “ of Militia. But there are, I observe, important  
 “ variances between the two motions. I would  
 “ particularly allude to the one referred to by the  
 “ hon. member for Sherbrooke, that his motion pro-  
 “ posed to pronounce an opinion upon the under-  
 “ standing of the two contracting parties, apart from  
 “ and irrespective of the written evidence altogether;  
 “ this motion does not do that. With regard to the  
 “ former motion, the House might well hesitate in  
 “ coming to a decision upon a question so difficult  
 “ to decide upon, whilst it may or may not hesitate  
 “ about pronouncing upon its own future action,  
 “ which is what is proposed by the present motion,  
 “ therefore, for these reasons I think the motion is  
 “ in order.”

11th April, 1871. *Journal*, pp. 264, 265.

No. 191.—Amendment for an instruction to a Committee of the Whole, to except a particular Province from the operation of a Bill affecting the whole Dominion, declared out of order, because the Committee had already that power

*Instructions to a Committee of the Whole.*

*Mr. Colby* having moved the House into Committee of the Whole, on the Bill to repeal the Insolvency Laws, an amendment of *Mr. Anglin* was proposed and lost, after which *Mr. Harrison* moved that it be an instruction to the committee to except the Province of Ontario from the operation of the Bill. *Mr. Blake* said that he thought the motion was out of order, whereupon *Mr. Speaker* ruled that:—“ As the Bill affected the whole Dominion, the committee had already the power asked for in the motion, and, therefore, the motion is out of order.”

2nd May, 1872. *Journal*, pp. 78, 79.

Petition by telegraph **No. 192.**—Petition forwarded by telegraph, and therefore containing no real signatures attached to it, cannot be received.

A Petition of *J. H. O'Donnel, M. D.*, on behalf of a meeting of certain persons who were imprisoned during the troubles in Red River, in 1869 and 1870, praying for a fuller and more impartial investigation into their losses and claims, sent through the telegraph office from Fort Garry, Province of Manitoba, having been presented by the *Hon. Alex. Mackenzie*, a motion was made, that the said petition be received and read. *Mr. Speaker* decided:—"that this petition cannot be received, because there are no real signatures attached to it."

3rd. May, 1872. *Journal*, p. 80.

Insolvency Bill.

**No. 193.**—An Insolvency Bill does not propose to regulate trade, and need not be originated in Committee of the Whole.

*Mr. Colby* having moved that a Bill to repeal the Insolvency laws be read a third time, *Mr. Harrison*, member for Toronto, objected that the Bill affected trade, and should have originated in Committee of the Whole. The *Speaker* said:—"I must decide against the objection. The object of a committee, in general, is to require the second thought of the House, in imposing burthens; and that object is certainly not required here, where the Bill is to repeal. Apart from that, I cannot agree with the hon. gentleman, in holding that this Bill relates to Trade. It may certainly apply directly to traders, as individuals, but it does not propose to regulate Trade as a subject matter." The Bill was then read a third time, on division.

17th May, 1872. *Journal*, p. 120.

**No. 194.**—A private member of the House is not competent to originate resolutions imposing taxation on the people. Initiation of taxation.

*Mr. Ross (Dundas)* having moved the House into Committee of the Whole to consider the following resolutions :—

1st. "That it is highly desirable that the several classes or branches of industrial pursuits in this country should as far as possible be placed on an equality.

20. "That the Agricultural class is not so placed, whilst grain of all kinds remain in the Free List.

30. "That in order to remedy that inequality, and to remove an injustice, the following articles imported into this country be made subject to a duty of, viz :—Barley, Oats and Indian Corn per bushel .....cents ; Coal per ton.....cents." The Speaker ruled the motion out of order, on the ground :—"That it did not rest with a private member to introduce any measure imposing taxation."\*

20th May, 1872. *Album Debates of the Ottawa Times*, p. 123.

**No. 195.**—Petitions for private Bills, presented after the time for receiving such petitions had expired, cannot be received. Petitions for private bills

A motion having been made that the petition of *Sir A. T. Galt, M. P.*, and others, of the City of Montreal; praying for an Act of incorporation, under the name of the Accident Insurance Company of Canada, and the petition of *John Shultz, M. P.*, and others; praying for an Act of incorporation, under the name of the North West Company, be now received and read; *Mr. Speaker* decided, that,

\* See also ante No 183.

“ as the time for receiving petitions for Private Bills, expired on the 16th instant, they cannot be received.”

20th May, 1872. *Journal*, p.<sup>a</sup>128.

Quotations  
from news-  
papers.

No. 196.—A member reading quotations from a newspaper, not relevant to the motion before the House, is out of order.

*Mr. John O'Connor* having moved an Address to His Excellency the Governor General, for correspondence between the Dominion Government and the Government of the Province of Ontario, respecting the right of appointing counsel for Her Majesty in that Province, proceeded to sustain his motion by reading quotations from the *Toronto Globe* newspaper, whereupon *Mr. Speaker* interrupted him, and said:—“ He did not see that the hon. member’s remarks on the extracts he proposed reading, had any bearing upon the motion. He could not see that there was any apparent connection between them. The hon. gentleman knew the rules, and would be able, doubtless, to keep within them.” *Mr. O'Connor* then proceeded to read a number of extracts from the *Globe* of 1856, when the *Speaker* (interrupting) said:—“ That these quotations were not pertinent to the question.” *Mr. O'Connor* said that it seemed to him they were. The *Speaker* replied:—“ The hon. member should submit to the opinion of the Chair, at once. If he had any speech of his own to make on the question, he should make it, but the reading of these quotations was not in order.” Soon afterwards, *Mr. O'Connor*

again read extracts from the *Globe*, and again Mr. *Speaker* ruled "these extracts irrelevant to the question before the House, and out of order."

The motion for an Address was then withdrawn.

22nd May, 1872. *Album Debates of the Ottawa Times*, p. 138.

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No. 197.—An amendment, objected to, on the ground that it had no Amendments. relation to the original motion; decided that the amendment was pertinent.

The House having resumed the adjourned debate on Mr. *Joly's* proposed motion, that this House do resolve itself immediately into a Committee of the Whole, to consider the following resolution:—

"Resolved, That considering the Superannuation Fund is raised entirely out of the compulsory contribution taken from the salaries of public officers, it is just that the whole of the fund should be consecrated to the use and benefit of the said officers by applying it, first to their personal relief, according to law, and (if any surplus be left after payment of their superannuation allowances) to the relief of their widows and orphans;" Mr. *Jackson* moved in amendment, to substitute a resolution to declare that:—"In the opinion of this House, it is not expedient to alter the provisions of the Act relating to the superannuation of officers, during the present session, but that the subject should engage the attention of a new Parliament." Mr. *Joly* objected that this amendment had no relation to the original motion, and was out of order. The *Speaker* said:—"I must overrule the objection. The motion of the hon. member for

“Lotbinière [*Mr. Joly*] though a mere abstract opinion, is expressed against the present system under the Superannuation Act. In lieu of that, the hon. member for Grey [*Mr Jackson*] proposes that in the opinion of the House, the present law should not be altered. This is a practical proposition, which might be adopted in lieu of the other, and is pertinent to the subject of the main motion.”

The amendment was then put to the House, and agreed to on division.

27th May, 1872. *Journal*, p. 166.

Bill identical  
with a former  
Bill

No. 198.—A Bill objected to, on the ground that the principle involved therein, was identical with that of a Bill already voted upon during the present session; objection overruled, because there was a substantial difference between the two measures.

*Mr. Costigan*, having moved the third reading of a Bill to compel members of the Local Legislatures, in any Province where dual representation is not allowed to resign their seats before becoming candidates for seats in the Dominion Parliament; *Mr Mills* raised the point of order, on the ground that “the principle involved in this Bill, is precisely the same as one voted upon before this session, intimated:—‘An Act to render members of the Legislative Councils and Legislative Assemblies of the Provinces now included, or which may hereafter be included within the Dominion of Canada, ineligible for sitting or voting in the House of Commons of Canada;’ and the fact that it extends to but three of the Provinces, does not make it in principle a different Bill, since it proposes to deal with the same subject, and disqualify as candidates



“for Election to the House of Commons the same “class of persons.” Mr. *Speaker* overruled the objection as he considered it was a technical argument, and that substantially the questions were different.\*

4th June, 1872. *Journal*, p. 213.

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No. 199.—A motion to re-commit a resolution of Supply, with the Supply vote view to consider of granting a subsidy to the construction of the Georgian Bay Canal, declared to be out of order as it was not recommended by the Crown <sup>must be recommended by the Crown.</sup>

The Committee of Supply having reported a resolution (No. 108) for works of construction, \$3,490,000; upon motion to concur therein, Mr. *McConkey* moved that it be not concurred in, but that it be referred back to a Committee of the Whole, with a view of considering the propriety of granting a subsidy, either in land or in money, toward the construction of the projected Georgian Bay Canal, a work, in the opinion of this House, of great national importance to this Dominion, and calculated, if prosecuted to completion, to develop its best resources. Mr. *Forbes* (acting Speaker) ruled:—“That as the granting of this motion in amendment would involve a tax upon the people, and the subject matter thereof is not recommended by the Crown, the amendment is out of order.” The motion in amendment was accordingly withdrawn.

11th June, 1872. *Journal*, p. 311.

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\* See also No. 187.



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APPENDIX.

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# SPEAKERS' DECISIONS

UPON

RECOGNIZANCES

IN

## CASES OF CONTROVERTED ELECTIONS.

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MR. SPEAKER SMITH'S DECISIONS ON ELECTION  
RECOGNIZANCES.

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No. 1.—JUDGMENT IN THE MATTER OF THE CONTRO-  
VERTED ELECTION OF VERCHÈRES.

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SPEAKER'S CHAMBER, LEGISLATIVE ASSEMBLY, }  
TORONTO, 20th March, 1858. }

Objections taken to recognizance filed in the matter  
of the contestation for the County of Verchères.

*Edward Carter, Esquire*, appears for the sitting  
member.

All of the objections taken are not insisted upon,  
but the counsel for the sitting member relies upon  
those only which point to the defect in the acknow-  
ledgment of the recognizance, and to the omission  
of the words: "*devant moi*" in the *jurat* of the affida-  
vit of sufficiency.

It will not be necessary for me in the present case  
to pronounce an opinion upon any point raised,  
except the one relating to the defective *jurat*, and  
the authorities upon this point (see:—*Graham v. In-  
gelby*, 1. Exch. 651, 5 D. and L., 737; *Regina v.  
Inhabitants of Norbury*, 2; *New Sess. Cases*, 344;

15 Law Journal, Q. B., 264; Regina v. Inhabitants of Bloxham, 6, A. B., 528,) are so conclusive that my decision is—the objection is valid, and the recognizance is objectionable.

(Signed,) HENRY SMITH, Jnr.,  
Speaker, Legislative Assembly.

(From the Toronto Daily Colonist of 26th March, 1858.)

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No. 2.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF RICHELIEU.

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SPEAKER'S CHAMBER, LEGISLATIVE ASSEMBLY,  
TORONTO, 20th March, 1858. }

Objections taken to recognizance filed in the matter of the contestation for the County of Richelieu. For sitting member, *E. Carter, Esq.*

For the petition, *Hon. Joseph Cauchon, Dunbar Ross, Esq., Q. C., and E. U. Piché, Esq.*

The objections taken are seven in number, of which the second, fifth, and seventh were abandoned by the counsel for the sitting member.

The first, third, fourth, and sixth were argued by counsel, and are as follows:—

1st. Three of the parties named in the recognizance have neither signed it nor made their marks to it, and the Justice before whom it was taken has not noticed such want of signature or mark over his signature at the foot of the recognizance, nor has he certified that the recognizance was read over and explained to the said parties who did not sign or make their marks to the same.

3rd. That the affidavit of justification is insufficient, because neither the signatures nor marks of three of the deponents are thereto; that their names are not separately mentioned in the *Jurat*, nor is it certified that the affidavit was read over and explained by the Justice; that there should have been

four separate affidavits, or if the sureties were united in one affidavit, that each should have sworn that he possessed property to double the amount of the sum in the recognizance, instead of the whole being included together as in the affidavit.

4th. That the affidavit, in its present form, does not establish with sufficient certainty that each surety separately is possessed of property, after payment of his debts, to double the amount for which he became security. The words: "*jusqu'au montant de cent livres cours actuel,*" importing only that the sureties after the payment of their respective debts, were collectively worth the sum of £100.

6th. That one of the said sureties is not sufficient, and that I will establish his insufficiency by affidavits.

Upon the first objection, that three of the cognizors have not signed the recognizance, that being illiterate have not made their marks, and that it does not appear to have been read over and explained to them, I am of opinion that *quoad* these three cognizors there is no execution according to the requirements of the 10th section of the Election Petitions Act of 1851.

This section requires that the recognizance may be in the form or to the like effect as set forth in Schedule A (1) annexed to the Act.

This schedule provides for the signature of the parties, and in the present case there is no signature and consequently no execution. A recognizance to the Crown must be treated with as much solemnity as a deed, and if an issue were raised as to the execution of the instrument, it could not be asserted that these parties did in fact execute the same.

When there is no signature or mark, there is no necessity for reading over or explaining the instrument: it is in fact a nullity.

Upon the third objection, I am clearly of opinion that the want of signature to the affidavit of sufficiency of three of the deponents renders it bad in law. They have not conformed to the first essential

of an affidavit, and without a signature it could not be read or received.

The want of the statement in the *jurat* that it was read over to the deponents would be fatal if they had signed it with their several marks, and the omission of the names of the several deponents is equally bad. The authorities in support of the latter objection are conclusive, and I refer to them here for future precedents should they be required:—*Pardoe vs. Jerrett*, 2 Dowlings P. C. N. S. p. 903; *Houlden vs. Passau*, 6 Benj. Rep. 236; *Rex vs. Sheriff of Middlesex*, Dow. P. C. 765; *Haynes vs. Powell*, 3 Dow, P. C., 599, 3 Chitty Prac. of the Law, 282. Perjury could not be assigned upon this affidavit.

To support an indictment for this offence, if founded on an affidavit, it would be necessary to prove “that the name subscribed to it is of the defendant’s handwriting.” See Archbold’s Crim. Pleading, 13th Edit, p. 682. If the defendant makes his mark, such fact would require to be proved, and that the affidavit was read over and explained to him.

Upon an indictment for perjury in an affidavit which was signed with the mark of the defendant, but the *jurat* to which omitted to state that it was read over to the defendant, it was held that, as the defendant was illeterate, it must be shown that the defendant understood the affidavit. *Rex vs. Hailey, R. and M. N. P. C. 94*, 1 C. and P. 258.

The *jurat* is also defective in not stating the names of all the deponents. The form given in the statute before referred to, is intended for the case of one surety, and although it is entitled “Affidavit of sufficiency of sureties,” yet the text throughout is in the singular number, and the *jurat* refers to a single deponent, and the form is intended for each surety, if more than one enter into the recognizance.

Upon the sixth objection I refused to receive evidence, it not being specific in respect to the surety intended to be attached.



My decision is, that the first and third objections are valid, and that the said recognizance is therefore objectionable.

(Signed,) HENRY SMITH, Jnr.,  
Speaker, Legislative Assembly.

(From the Toronto Daily Colonist of 26th March, 1858.)

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MR. SPEAKER COCKBURN'S DECISIONS ON ELECTION RECOGNIZANCES, DURING THE FIRST SESSION OF THE FIRST PARLIAMENT OF CANADA, IN 1867-68.

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No. 3.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF BERTHIER.

In this matter, several documents are produced by the sitting member in support of his objections to the recognizance entered into by the cognizor under the name of George Champagne, and, several by the petitioners in rebuttal.

1. Extract from the Parish Register of the parish of St. Genevieve de Berthier, being a certificate of the baptism on the 4th day of October, 1828, of Alexis George, born of the legitimate marriage of Célestin Beaugrand Champagne and Madelainé Deseres.

2. Contract of Marriage between Alexis George Beaugrand dit Champagne and wife, 29th July, 1847, signed by him, "George Champagne"

3. Certificate of marriage of George Alexis Beaugrand and Genevieve Mousseau, said certificate dated at Berthier, signed by him as "George Champagne" on the 2nd August, 1847

4. Certificate of baptism of Marie Louise Amanda, issue of said marriage of George Beaugrand, 10th December 1865, on which occasion he signed as George Beaugrand.

5. Certificate of baptism of another child issue of

the marriage of George Beaugrand Champagne, 10th June, 1860, signed on that occasion George Champagne.

6. Certificate of baptism of another child issue of George Beaugrand Champagne, 17th Sept., 1862, signed on that occasion G. Champagne.

7. Valuation roll of the parish of Berthier, 1860, name entered as George Beaugrand.

Several affidavits have been filed in support of the objections. The deponents Coutu, Gagnon, Leclair, Ribardy and Frechette, state that they know the parish, that there does not exist any man who bears the name *purely* and *simply* of George Champagne; there is a man called George Beaugrand, who has been and still is called Champagne, but his true name is Beaugrand.

It further appeared that the surety had voted at the last election, though his name, was entered in the list as George Beaugrand, but had stated that his name was George Champagne.

Counter affidavits have been filed by the petitioners, sworn to by the Mayor, the Seigneur, the Postmaster, and the Secretary-Treasurer of the Municipality, all of which shew, as well as the bulk of evidence taken before me, that the surety is generally and publicly known as George Champagne, that he is proprietor of large property, that he has entered extensively into business transactions by that name, has given promissory notes, and purchased property by that name, both by private and Sheriff's sale, has been a suitor in the Court of Appeals by that name without exception having been taken, that he is not known on the *Cadastre* or Seigneur's Roll by that name only, and that he has been thus known for a period of twenty years, with the exception of a portion of that time, when he used the initial letter C after George, to distinguish his name from that of his cousin, whose name was also George, and that this initial was dropped at his cousin's death, some six or seven years ago.

It is objected that the baptismal name of the surety in full, Alexis George Beaugrand Champagne, should have been stated in the recognizance, and in the affidavit of suretyship.

A decision in the case of *Paradis vs. Lamere* in the Superior Court for Lower Canada is cited by the sitting member. At first view it would appear to support the objection, but a careful reading of the evidence shews that the facts vary considerably from those in the present case. There, the plaintiff was baptised as Charles Amable Henri Paradis and acquired deeds of property in the same name. He had also stated to one of the witnesses, that such was his name; on the other hand, there was no evidence to show that he had acquired *another name* by adoption and notoriety, it being merely shown that he was generally called Henri, which establishes nothing against the baptismal name being still his recognized name. Moreover, I see that the authority of this case is doubted. The reporters in a foot note, intimate that the Court may have gone too far; it is clear, however, that the question with the Court was the proper identification of the party. That case does not touch the question, how far a party may by his own acts and declarations acquire a new and different appellation from that used at his baptism, nor does it show that a new name so taken and acquired, provided the evidence were clear, would be open to the exception taken in the above case; on the contrary I infer from that decision and from the note at the foot, that had the evidence been as clear as in this case, the judgment would have been the other way. According to the English law of Pleading, (before pleas in abatement were abolished) a plea of misnomer could have been well answered by an allegation, that the plaintiff or defendant, as the case might be, was as well known by the name given as by any other.

The case of the *King vs. the Inhabitants of Billinghurst*, reported in 3 Maule and Selwyn, page 250, is a striking authority against this objection.

There can be no doubt whatever that George

Champagne is by that name publicly and generally known, and by that name can be readily found. Even the affidavits filed on behalf of the sitting member, qualified as they are, shew this clearly.

The question is, can a surety, under the Statute, give the name by which *he is known*, or must he give his baptismal name? A similar question was raised in the St. Hyacinthe Controverted election case recently before me. The surety was baptised Charles Alfred Mousseau, but was publicly known as Joseph Alfred Mousseau. He first became aware of his baptismal name when he was called to the bar of Lower Canada, when he was required to produce the certificate of his baptism. Notwithstanding this, he was enrolled as a member of the bar by the name which he has always borne—Joseph and by that name ~~has taken~~, accepted and executed deeds conveying property, and by that name has practised his profession, and has never been known by the name appearing in the parish register as his baptismal name. I think the dictum of Sir William Scott in a suit to cancel a marriage, in the case of *Frankland vs. Nicholson*, (see note No. 1 at foot of *Rex vs. inhabitants of Billinghamst (3) Maule and Selwyn*) is a clear authority against the objection urged in the St. Hyacinthe case, and in the present case, viz:—That the baptismal, christian, and surname of the surety had not been given; and it is to be noted that the statute under consideration in *Frankland vs. Nicholson* (26 George 2 c. 33,) required the *true christian and surname* of the parties to be given. Yet Sir Wm. Scott says in his judgment:

“ That there may be cases where names acquired  
 “ by general use and habit, may be taken by repute  
 “ as the true christian and surname of the parties,  
 “ and if a person has acquired a name by repute, in  
 “ fact the use of the true name, in the banns, would  
 “ be an act of concealment that would not satisfy  
 “ the public purposes of the Statute, therefore I do  
 “ say, that names so acquired by use and habit  
 “ might supersede the use of the true name.”

Now when we look at the Controverted Elections Act, S.S. 13 and 21, we see at once that the object was to require a sufficient description to *identify* the surety (that is all;) if that object is attained, the condition of the Statute is performed. A Jew or Pagan can have no christian name, in the restricted sense, contended for, and yet there is no kind of question that either would be a good surety to an election recognizance by the name, which he has adopted, and by which he is commonly known, and can be readily found. Certainly a departure from the baptismal name creates a suspicion as to the identity, but in both these cases the facts are so clear, leaving no possible doubt as to the individual identity of each surety (which is hardly attempted to be denied) that I have no hesitation in overruling the objection.

An objection is also taken to the affidavit of the surety, in this, that it does not give the place of residence, the words being (*domicilié en*) domicile in the parish of Berthier, &c, which, it is contended, do not denote residence. The French version of the Statute uses the words *domicile ordinaire*, and I see by article 80, title 3, of the Civil Code that "change of domicile is effected by actual residence in another place, coupled with the intention to make it his principal establishment." I think in the affidavit before me, the words used do denote residence. The time and place of acknowledgment in the certificate is also objected to. I have already overruled this, in the cases of St. Hyacinthe and Bagot.

I therefore declare the recognizance in this case Unobjectionable.

The decision in the Berthier case applies to the cases of *Hochelaga* and *Vercheres*, the security being the same man, "George Champagne." Mr. O'Farrel for sitting members; Messrs. Chapleau and Mousseau for petitioners.

(From the Ottawa Times of April 2nd, 1868.)

No. 4.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF JOLIETTE.

On behalf of the sitting member, it is objected that the name of the street or other definite description of the residence of the surety is not given. I am aware that the practice prevails in England to give the street and the number of the house, but in our more thinly populated towns and districts, such particularity is not necessary, nor has it ever been the practice here to require it. The 13th section requires the names in full to be given *and* the usual *place* of residence *or* business, with *such other* description of the sureties as may be sufficient to identify them. The profession and calling of the surety is, in the case, *also* given, which I think is sufficient *prima facie* to identify the surety, and that the *onus* rests on the sitting member to show, under section 21, as a matter of fact, that the surety cannot be readily found for the want of a more sufficient description.

This not appearing, and there being no question raised upon the fact of the surety being readily found; I overrule the objection.

The affidavit of the surety is sufficient,—the translated copy is not quite in the form given in the Controverted Elections Act, but it is to the same effect, and refers to the annexed recognizance, and is certified to have been sworn to at the time and place where the recognizance was given.

It was objected further that it does not appear by the certificate of acknowledgment, at the foot of the recognizance, at what place the same was acknowledged; that, in fact, "the place aforesaid," relates to the last place mentioned, viz: the constituency. This would undoubtedly have been the proper construction, had "a place" alone been mentioned in the recognizance, but more than this is stated "Be it remembered, that on the 19th day of November, A. D. 1867, before me, J. C., Speaker, now in the Parliament House, in the City of Ottawa, appeared, B. V., of, &c., who acknowledged himself, &c." Now the "day and place aforesaid" in the certificate of

of acknowledgment at the foot, relates to the place and date already mentioned in the body of the document, to have been the date and place when and where the recognizance was taken. The word "aforesaid" clearly embraces more than time and place; it includes the act of acknowledgment as well, and read as it should be read in that connection, there can be no question of doubt about it. The recognizance itself contains all that is necessary, and the certificate, if simply signed after the words "before me," would be enough; it forms no part of the recognizance.

I decide against all the objections raised.

(*From the Ottawa Times of 8th April, 1868.*)

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**No. 5.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF QUEBEC-EAST.**

The recognizance is defective in this, that the name of the Justice of the Peace before whom it was acknowledged is omitted altogether, and even if that defect could be supplied by reading the certificate of acknowledgment at the foot, still the place where the acknowledgment was taken is not shown as the residence only of the Justice is mentioned in the recognizance.

The other objection as to misnomer is not fatal in my opinion, as the name "JAC" is *idem sonans* with "Jacques," and unless it could be shown that the surety could not be found or ascertained, which I understand does not appear by the affidavits, it not being pretended that there is any doubt of the surety's identity; I should not be inclined to give effect to it. My decision rests on the first objection.

Recognizance to be declared objectionable.

(*From the Ottawa Times of 8th April, 1868*)

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**No. 6.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF CHARLEVOIX.**

It was objected by the sitting member that the

affidavit of sufficiency was defective, inasmuch as the surety, instead of stating that he was seized and possessed of real and personal estate worth double the sum of eight hundred dollars over and above his just debts, &c., only swore that he was seized and possessed of estate worth eight hundred dollars over and above, &c.

I hold this objection to be fatal, and I declared the recognizance objectionable.

(From the *Ottawa Times* of the 8th April, 1868.)

**No. 7.—JUDGMENT IN THE MATTER OF THE CONTROLLED ELECTION OF BAGOT.**

There is a variance between the petition and the recognizance in the place of residence of one of the petitioners.

The petition is by Raphael Ernest Fontaine, Esquire, Advocate, of the Parish of St. Hyacinthe, *le Confesseur*, and others, complaining of an undue election for Bagot.

The recognizance is by the Hon. Maurice Laframboise, of the City of Montreal, Advocate, and the condition is that if Raphael Ernest Fontaine, Esquire, Advocate, of St. Hyacinthe, and others; (describing them correctly) well and truly pay all costs which may become payable in respect of the *said* election petition, *signed by them*, relating to the contestation of the last election for Bagot, then to be void, &c., &c.

It seems that there are two parishes, St. Hyacinthe, and St. Hyacinthe *le Confesseur*, besides the City of St. Hyacinthe, and it is objected that this variance is fatal, and that the sitting member would lose his remedy on the recognizance because of this variance in the place of residence, which in effect, it is contended, makes the security inapplicable to this petition. The Statute, neither in the enacting clauses, nor in the form, requires the place of residence of the petitioners to be mentioned. This was entirely unnecessary, and the only thing to consider



is, whether the error, St. Hyacinthe, instead of St. Hyacinthe *le Confesseur*, can mislead or raise a doubt as to the identification with the petition.

I do not think that it has any such effect; the condition is that they (giving the correct names) shall pay all costs in respect of the said petition, *signed by them*, relating to that election. These words underlined govern the sentence; they are the words intended in the form to connect the petition with the recognizance, and I have no kind of doubt that they do so effectually in this instance, notwithstanding the error in the place of residence, which need not have been given, and may therefore be rejected altogether.

The objection as to the word "*said*," with reference to the petition, the same not having been previously mentioned, is, I think, immaterial, and may be treated as surplusage.

Recognizance to be declared unobjectionable.

(From the *Ottawa Times* of the 24th April, 1868.)

**No. 8.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF MONTREAL-EAST.**

It is objected by the sitting member, that the recognizance is invalid, inasmuch as it relates to an election held for the Electoral Division of Montreal East, instead of the Electoral District of Montreal East, the latter being, as is contended, the correct and only legal description of the constituency under the British North America Act 1867, sec. 40.

The petition relates to an election held for the Electoral Division, and the Recognizance accords with that petition. In "*Warren*," on elections, page 298, it is laid down as one of the points settled, "That a Recognizance which misdescribes the place is good, if it follow the description in the Petition itself."

The only question before me is this,—Are the recognizance and the affidavit by the surety valid, as taken in connection with the petition? Were I

to decide that the Recognizance is void, for the reason given, I should also in effect, decide that the Petition is void, which is beyond my power to do.

I am confirmed in this view by a note of a decision by Mr. Rickards, the Examiner of Recognizances to the House of Commons in England, in the borough of Galway case, in March, 1866. "That the petition was not properly described in the Recognizance as a petition relating to the borough of Galway, Galway being, in fact, a County of a Town." Held immaterial. This decision is applicable to the present case, and I, therefore, overrule the objection.

I do this the more readily because the objection—in which I think there is great force—can be adjudicated by the Select Committee. The Nottingham case in Corbett and Daniel's election cases is a clear authority for this.

The second objection is, that the Christian name and surname of the Cognizor are not subscribed at full length. They are written at full length in the body of the Recognizance, and also in the Affidavit of suretyship, but they are not subscribed at full length; and moreover, it is contended, that the signatures (such as they are), and even the names written in full in the body of the Recognizance and of the Affidavits do not apply to the interlineations appearing there, as to which there are no subscriptions.

The Statute (Controverted Elections' Act, sec. 13), merely requires that the Christian name and surname of the surety shall be mentioned in full in the Recognizance and Affidavit. This has been done, and I see no reason why the signatures should also be in full. The surety has signed by an initial letter for his Christian name, at all times a good signature to deeds and legal documents, and I see nothing in this Statute which requires more particularity, as long as the names are given at length in the instrument.

Then, as to the interlineations, they appear to have been initialed by the Justice of the Peace before

whom the Recognizance was taken. This I think quite sufficient. It is not necessary to initial alterations and interlineations in affidavits made before the Courts of Common Law in Upper Canada, nor is it necessary to do so in regard to deeds, the presumption being, according to English decisions, that all such alterations and interlineations were duly made before the instrument was executed. I cannot properly admit of a different doctrine in regard to Election Recognizances.

The last objection is, that there is no seal to the Recognizance or to the Affidavit. There could be no reason certainly for a seal to the Affidavit, and as to the Recognizance, I find that none is required. This kind of instrument speaks as its form indicates, from the record of its acknowledgment, not from its seal,—taken and acknowledged before me, instead of—sealed and delivered. I, therefore, overrule all the objections, and shall declare the Recognizance unobjectionable.

*(From the Ottawa Times of the 27th March, 1868.)*

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**No. 9.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF ARGENTEUIL.**

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There were two petitions in this case, No. 1 presented on 11th November, and No. 2 on 19th of November, 1867. There was no recognizance entered into, but a money deposit was made by the petitioner on the 9th of November, in respect of a petition to be presented—a certificate by the Chief Clerk of this deposit was given to the depositor, and was by him unnecessarily attached to the Petition No. 1, which was first presented to the House.

On objection taken by the sitting member, on the ground that no Speaker's certificate had been endorsed on the Petition No. 1, pursuant to Sec. 17, of the Controverted Elections Act, I reported to the House that the security was objectionable in respect of that petition. The petitioner adopted the course of presenting a second petition, being within the time limited by the Statute, and the question now is, can the deposit be applied to Petition No. 2?

It is clear from Section 16 that the deposit was not available for Petition No. 1. This was the effect of my ruling on the objections of the sitting member, "Praying that the said Petition be not received or proceeded upon;" the conditions prescribed by the Statute, viz: "that the Chief Clerk's certificate should be produced to the Speaker, and the Speaker's certificate endorsed on the petition," not having been complied with.

Petition No. 1 is, therefore, in my opinion, out of the question altogether, and there can be no claim for costs out of the deposit in respect of a petition to which the deposit has been virtually held not to apply.

Then as to Petition No. 2, I see no valid reason why the deposit should not apply to it. The money was paid on account of a petition *to be* presented in respect of this election. By sub-section 2, of sec. 15, the Chief Clerk is directed to keep a remembrance in his books of the petition on which the deposit has been made, "as the same has been stated by the party paying the same." The party petitioning stated that the deposit was made in the matter of an undue election for Argenteuil, and obtained the Chief Clerk's receipt in those words. That receipt was produced to me, and I granted my certificate thereupon, which was endorsed on Petition No. 2; this made the application of the deposit to that petition complete. Exception, however, is taken to the manner in which the certificate was produced, in this that it was already attached to Petition No. 1, and was a record of the House, and could not, therefore, be produced or delivered to the Speaker. I do not so consider it. The delivery or production of the certificate intended by the Statute is for the purpose of evidence, not of exclusive control or possession, and though Petition No. 1 was, and is, no doubt, a record of the House, yet it may be a question whether the certificate attached was, or was not, a record—it was not required by law to be so attached, and it was there by mistake. However that may be, it could properly be produced and delivered as evidence to the Court or Judges of the Court hold-

ing those records; original records and documents can at all times, and frequently are, seen and inspected by the Judges, and by Juries also.

Another objection is taken that the constituency has been misdescribed in the Chief Clerk's receipt, in calling it the County of Argenteuil, instead of the Electoral District of Argenteuil. As to this I think, if by fair intendment it can be seen that the deposit applied to this petition, it is sufficient; the acts of the petitioner put this beyond question.

One or two other objections have been urged, which I do not think material. There can be no question as to the identity of the depositor with the petitioner, the name alone in the certificate is sufficient without any addition, unless doubt is first raised by evidence on the other side. Nor can the form of the Chief Clerk's receipt, or of the Speaker's certificate, be allowed to prejudice the case, unless it had been peremptorily required by statute, when it would have been the duty of the party to have seen that it had been followed.

Under all the circumstances, and after the most careful consideration of the very able arguments of counsel on the part of the sitting member, I feel it incumbent on me to declare the security unobjectionable.

*(From the Ottawa Times of 30th March, 1868.)*

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**No. 10.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF ESSEX.**

*Decision on one Point.*

The objection urged is that the omission of the word "or" in the last paragraph of the condition of the recognizance is fatal—the form in the Statute is in these words "or to any clerk, bailiff, or other "officer appointed by any such commissioners," &c.

I do not think that the omission is material; Courts of law will always construe documents so as to give them effect if possible. If there was a doubt that

the costs incurred by this class of persons (officers, clerks, and bailiffs appointed by any of such commissioners,) could not be recovered; then, the security of the sitting members might be imperilled; but I think there is no such doubt; a meaning must be given to this paragraph, and to hold that the literal construction is to be given (in the absence of the word "or,") leads to an absurdity. There could be no commissioner appointed under the said Act, to a clerk or bailiff, and therefore that meaning cannot be given. The condition is, that the cognizors shall pay all monies which shall become payable in respect of their election petition relating to the County of Essex, "under the Act relating to Controverted Elections" to any witness *or* to any commissioner appointed to take evidence, "*or*" to any person appointed commissioner in his place ("*or*") to any clerk, bailiff, &c., &c.

The latter word "*or*" must be construed as forming necessarily part of the obligation which is specially stated to have been taken under the Statute, which may properly be looked at to help the construction.

I therefore overrule the objection. The sitting member can proceed with his other objections to the Sureties.

*(From the Ottawa Times of the 4th April, 1868.)*

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**No. 11.—JUDGMENT IN THE MATTER OF THE CONTROVERTED ELECTION OF ST. HYACINTHE.**

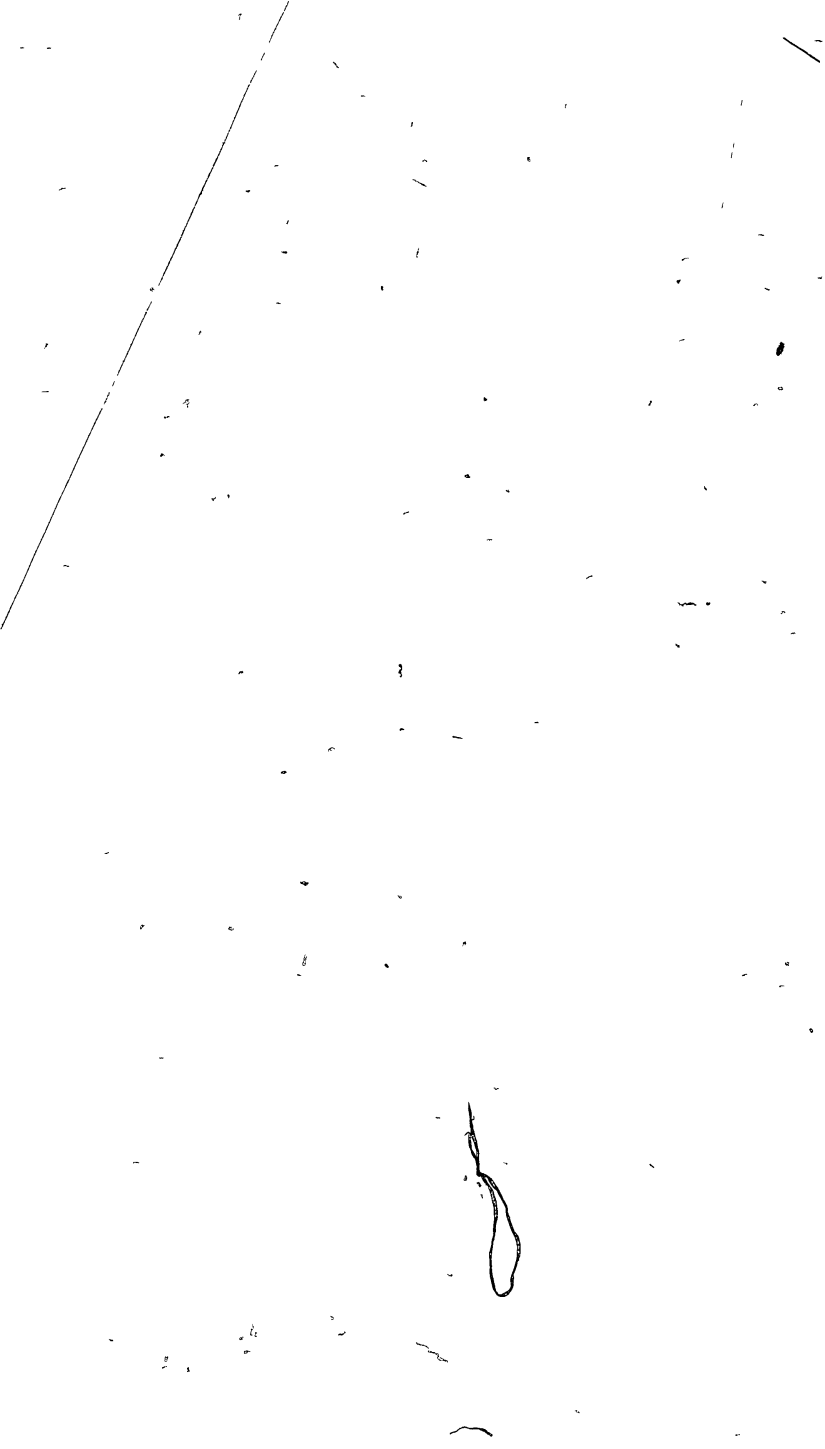
The main objection in this case is the same as that urged in the Joliette case, viz, that it does not appear by the certificate, at the foot of the recognizance, at what place the same was acknowledged: the form used in this case is essentially the same, and for the same reason given in the case referred to, I must overrule the objection. Reference has been made to the L'Assomption case, decided in 1858 against the recognizance, by Sir Henry Smith, Speaker of the Legislative Assembly of the Province of Canada,

on a similar objection. I have not seen the reasons given for that decision, but I observe a distinction between the recognizance in that case and the present. In the former, the cognizor in the body of the recognizance is alleged to have appeared at Montreal, in the District of Montreal, and to have there acknowledged, &c. ; and the certificate refers, as in this case, to the "day and place aforesaid." But in the St. Hyacinthe case, the recognizance states that the cognizor appeared at the Parliament buildings, in the City of Ottawa. May not the decision of Sir Henry Smith have proceeded on the vagueness of the place specified in the recognizance itself? not in the certificate Montreal, in the District of Montreal, might have meant a village of that name as well as the city.

I think the affidavit as well as the recognizance is sufficient.

*(From the Ottawa Times of the 4th April, 1868.)*







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- Member whose seat is contested may vote upon a report of the Committee to try his own election. No. 41.
- Member (acting ministerially on behalf of a Committee) may vote against his own motion. No. 41.
- Proceedings in the case of a member of the House arrested and placed in the custody of the Sergeant-at-Arms, by order of an Election Committee, for refusing to answer a question put to him by the Committee. Motion in relation thereto should emanate from the Committee, but should be sufficiently explicit for the House to understand the merits of the case. No. 95.
- Motion to discharge a member from further attendance on an Election Committee, cannot be moved before its turn, on the ground of its being a question of privilege. No. 92.
- Motion that leave of absence be granted to a member serving on an Election Committee, does not require previous notice. No. 113.
- An Election Committee, and not the House, is the proper tribunal to determine whether the signers of an Election Petition are sufficiently described. No. 145.
- Motion to refer to the Committee on Privileges and Elections, a petition complaining of the Report of Commissioners appointed to take evidence on the Oxford Controverted Election, declared inadmissible. No. 3.
- Report of an Election Committee, although drawn up in an unusual form, may be received. No. 58.

## ELECTION PETITION.

- May be received, although not dated. No. 116.
- In a case where no election had taken place in consequence of a riot, presented and received. No. 148.
- May be received on the 15th day after the opening of the first session of a Parliament. No. 146
- Presented on the 16th day after the opening of the Session, cannot be received. No. 147.
- Having affidavits attached to it, may be received. No. 145.
- Whether the petitioners are sufficiently described in the petition, is a question for the Committee, and not for the House, to determine. No. 145.
- The payment by a petitioner into the hands of the Clerk of the sum of £200, after the Speaker had decided that his recognizances were objectionable, would not justify a reference of his petition to the general committee. No. 34.

## ELECTION PETITION RECOGNIZANCES.

- Judgment in the matter of the controverted election of *Vercheres*, in 1858, by Mr. Speaker Smith. See:—Appx. No. 1.

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- of *Richelieu*, in 1858, by Mr. Speaker Smith. See:—Appx. No. 2.

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- of *Berthier*, in 1867, by Mr. Speaker Cockburn. See:—Appx. No. 3.

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- of *Joliette*, in 1867, by Mr. Speaker Cockburn. See:—Appx. No. 4.

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- of *Quebec—East*, in 1867, by Mr. Speaker Cockburn. See:—Appx. No. 5.

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- of *Charlevoix*, in 1867, by Mr. Speaker Cockburn. See—Appx. No. 6.

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of *Bagot*, in 1867, by Mr. Speaker Cockburn.  
See:—Appx No. 7.

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of *Montreal—East*, in 1867, by Mr. Speaker  
Cockburn. See:—Appx. No. 8.

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of *Argenteuil*, in 1867, by Mr. Speaker Cock-  
burn. See:—Appx. No. 9.

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of *Essex*, in 1867, by Mr. Speaker Cockburn.  
See:—Appx. No. 10.

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of *St. Hyacinthe*, in 1867, by Mr. Speaker  
Cockburn. See:—Appx. No. 11.

#### ELECTION WRIT.

—A new writ of election may be issued when a  
member accepts an office of emolument under  
the Crown, notwithstanding that his seat is  
contested. No. 84.

#### EMPLOYEES OF THE HOUSE OF COMMONS.

See.—*Privileges of the House of Commons.*

ENTRY IN THE JOURNALS. See:—*Journals of  
the House.*

#### ENQUIRY OF MINISTERS.

—Notice must be given before it can be put.  
No. 10.

—No comment to be made on an enquiry of  
Ministers. No. 59.

ETIQUETTE QUESTION. See:—*Address to His  
Excellency the Governor General.*

EXCISE DUTIES. See:—*Bills.*

#### FRENCH LANGUAGE.

—Motion refused to be received on account of its  
being written in the French language.  
No. 2.

#### FRENCH, TRANSLATION INTO.

—Second reading of a Bill postponed because it  
was not printed in both languages. No. 94.

- Bill read a second time, notwithstanding an objection that it had not been printed in both languages. No. 96.
- Consideration of the report of a Committee postponed because it had not been printed in French. No. 98.
- Second reading of a Bill opposed on the ground that it had not been printed in both languages. No. 118.

#### GOVERNOR GENERAL, HIS EXCELLENCY THE.

- Member called to order for speaking disrespectfully of the Governor General. No. 55.
- Whether it is disorderly to use the Governor General's name in a debate. No. 128.

#### HOUSE PRIVILEGES See:—*Privileges of the House.*

#### INITIATION OF TAXATION.

- A private member of the House is not competent to originate resolutions imposing duties or taxes on the people. Nos. 162, 194. See also:—*Bills, Procedure on.*

#### INSOLVENCY BILL. See:—*Bills, Procedure on.*

#### INSTRUCTIONS.

- To a Committee not yet struck, or to a Commission not yet appointed, declared out of order. Nos. 93, 171.
- To a Committee of the Whole, declared out of order, because the Committee had already the power proposed to be conferred. Nos. 167, 191.
- A motion for an instruction to a Committee of the Whole should be definitely worded. No. 67.

#### INTEREST TO DISQUALIFY A MEMBER FROM VOTING. See:—*Member.*

#### JOURNALS OF THE HOUSE.

- An entry in the Journals having been read, a notice is required before moving the adoption of a resolution thereupon. No. 66.

—Motion to read an entry in the Journals respecting a petition, followed by another motion to lay such petition on the table, second motion declared out of order, because no notice had been given. No. 141.

LAND CLAUSES IN PRIVATE BILLS. See: *Bills, Private*

LAW QUESTIONS. See:—*Speaker*.

LIBEL. See:—*Newspaper libel*.

### MEMBER.

—Called to order, for not addressing himself to the chair, and for crossing from one side of the House to the other, while speaking. No. 108.

—The rule of the House forbidding any member to speak more than once on a motion, to be strictly observed. No. 149.

—Called to order for speaking a second time on the same motion. No. 152.

—Called to order for attempting to speak a second time to the same question, allowed to speak on special motion. No. 117.

—Called to order and named. Nos. 14, 79.

—Called to order for characterising the Speaker's decision as arbitrary. No. 53.

—Called to order for speaking disrespectfully of the Governor General, No. 55.

—Whether it is disorderly to use His Excellency's name in a debate. No. 128.

—Cannot read his speech, but may use notes. No. 127.

—Reading quotations from a newspaper, not relevant to the motion before the House, is out of order. No. 196.

—Called to order for speaking beside the question. No. 68.

—In debate must speak to the question. No. 114.

—Asking leave to move an address in the absence of the member who had given notice of it, refused, because he had received no authority from the said member. No. 72.

—May move the second reading of a Public Bill, in the absence of the member in charge of the same. No. 109.

- Declaring himself opposed to the principle of a Bill, cannot form part of a Committee thereon. Nos. 44, 93.
- A member (acting Ministerially on behalf of a Committee) may vote against his own motion. No. 41.
- Motion that leave of absence be granted to a member serving on an Election Committee, does not require previous notice. No. 113.
- Motion to excuse a member from serving on an Election Committee requires notice, if objected to. No. 41.
- Notice required to add the name of a member to a Select Committee already appointed, unless unopposed. No. 43.
- Of an Election Committee arrested and placed in custody of the Sergeant-at-Arms, by order of the Committee, for refusing to answer a question put to him by a Committee. Motions in relation thereto should emanate from the Committee, but should be sufficiently explicit for the House to understand the merits of the case. No. 95.
- Voting on a report of an Election Committee trying his own election. No. 41.
- Wishing to be excused may be exempted from voting. No. 41.
- No remarks can be made by a member in presenting a petition. No. 71.
- The pecuniary interest which would disqualify a member from voting, must be direct and personal, not one in common with others. No. 135. See also No. 23.
- Adjournment of the House cannot be moved while a member is speaking, unless he gives way. No. 85.
- Moving an amendment to the order of the day has not the right of reply. No. 57.
- Moving an amendment to a motion for the House in Committee of Supply, has not the right of reply. No. 64.

- Whose seat is contested and who accepts an office of emolument under the Crown, a new writ of election may be issued, notwithstanding that the seat is contested. No. 84.
- Resolutions imposing duties cannot be proposed by a private member. Nos. 162, 194.

MEMBERS, PROCESS SERVED ON. See.—*Process served on members.*

### MONEY APPROPRIATION.

- Motion to interfere with the distribution of public moneys already voted must be recommended by the Crown. No. 112.
- Money Bill cannot be amended by altering a public charge therein, contrary to the purpose recommended by the Crown. No. 176.  
See also :—*Bills from the Upper House.*
- A Resolution involving a charge upon the revenue objected on the ground, that it should have originated in Committee of the Whole; objection sustained. Nos 19, 143, 169.
- Must be initiated by the Governor General. Nos. 82, 87.
- Amendment (to a motion to receive the report of the Committee of the Whole on a Bill) to increase the amount of a money appropriation beyond the sum recommended by the Governor General, ruled out of order. No. 156.
- Amendment (not being for an Address) proposing a different appropriation of funds to that recommended by His Excellency, ruled out of order. No. 53.
- Amendment (for an Address) to Resolutions for a money appropriation, contemplating a different expenditure from that which His Excellency had recommended, is in order. No. 52.
- Motion to change the destination, or increase the amount of a money appropriation recommended by His Excellency, declared out of order. No. 54.
- A proposed resolution for a money appropriation, not strictly within the purview of a Bill

- before the House, cannot be introduced in Committee on the Bill, but must originate in a Separate Committee of the Whole. No. 19
- A Bill containing a money appropriation not recommended by His Excellency, is out of order. No. 17.
- Amendment to alter the manner in which a certain money appropriation, recommended by His Excellency's Message, should be applied, declared out of order. No. 160,
- Motion for House in Committee to consider of a money appropriation, without His Excellency's recommendation, out of order. No. 20.
- See also :—*Resolutions on pecuniary questions ; Address to Her Majesty on a money question ; Bills, procedure on ; Petitions ; Motions involving a public charge.*

#### MONEY GRANT, ABSTRACT PROPOSITIONS RELATING TO.

- An abstract proposition, in favour of additional expenditure, does not require to be recommended by the Governor before it can be entertained by the House. No. 161.
- See also :—*Petitions.*
- Money payment recommended by a report of a Select Committee for damages against the Government. See :—*Committee to consider claims against the Government.*

#### MOTIONS.

- No notice is required for a motion in amendment. No. 30.
- Question of privilege may be moved without notice. No. 75.
- A question of which no notice has been given cannot be put. Nos. 10, 115
- Notice not required in case of urgency ; it is for the House to determine this matter. No. 188.
- Debate stopped, on a request that a notice of motion might stand over. No. 36.
- Notice required, to add the name of a member to a Select Committee already appointed, unless unopposed No. 43.



- Motion not in accordance with the previous notice, declared out of order Nos. 9, 11.
- Motion declared in order, although it did not appear on the notice paper, because the required notice of two days had been given. No. 27.
- No notice required for an amendment to a motion for going into Committee of Supply. No. 133.
- Motion for an Address to His Excellency, of which no notice had been given, declared out of order, but allowed to pass. No. 138.
- Motion of which no notice had been given, to refer to a Standing Committee, a return to an Address, declared out of order, although the House had debated the motion for some time. No. 174.
- An entry in the Journals having been read, a notice is required before moving the adoption of a Resolution thereupon, No. 66.
- Motion to read an entry in the Journals respecting a petition, followed by another motion to lay such petition on the table; second motion declared out of order, because no notice had been given. No. 141.
- Motion may be moved without notice to direct a Standing Committee to assemble. No. 110.
- Motion refused to be received, on account of its being written in the French language. No. 2.
- Prefaced, and not in accordance with the notice given, is unparliamentary. No. 9.
- Containing Resolutions not included in the notice, declared out of order. No. 11.
- Member asking leave to move an Address, in the absence of the member who had given notice of it, refused, because he had received no authority from the said member. No. 72.
- Second reading of a Bill moved in the absence of the member in charge of such bill. No. 39.
- To excuse a member from serving on an Election Committee, requires notice if objected to. No. 41.

- Member (acting ministerially on behalf of a Committee) may vote against his own motion. No. 41.
- To discharge a member from further attendance on an Election Committee, cannot be moved before its turn, on the ground of its being a question of privilege. No. 92.
- That leave of absence be granted to a member serving on an Election Committee, does not require previous notice. No. 113.
- For an instruction to a Committee of the Whole, should be definitely worded. No. 67.
- For the appointment of a Committee, once disposed of, cannot be renewed during the same session. No. 111.
- For an Address to His Excellency, moved before its turn had been reached on the notice paper, ruled out of order. Nos. 115, 125.
- Declared to be irregular after the sense of the House had been taken upon one of like import. No. 23.
- To rescind a resolution of the House, is in order. No. 24.
- The mover of a Resolution cannot be compelled to proceed with it, if he is not prepared. No. 99.
- The object of a motion for a Conference with the Upper House, must be stated in the motion. No. 61.
- To resolve that a certain newspaper article is a false and scandalous libel, is in order. No. 69.
- Debate stopped, on a motion to consider a resolution (involving a public charge) on a future day. Motion declared out of order, not having been recommended by His Excellency. No. 159.

#### NEWSPAPER LIBEL.

- A motion to resolve that a certain newspaper article is a false and scandalous libel, is in order. No. 69

#### NEWSPAPER QUOTATIONS:

- Member reading quotations from a news-

paper, not relevant to the motion before the House, is out of order. No 196.

NOTICE OF MOTIONS. See:—*Motions.*

ORDER, POINTS OF.

—In Committee of the Whole to be decided by the Chairman of the Committee No. 185.

ORDERS EXPIRE WITH THE SESSION. See:—*Witness.*

ORDERS OF THE DAY.

—Motion to take up a Bill placed at the foot of the Orders of the Day, before notices of motions had been called, ruled out of order. No. 89.

—No amendment can be offered to a motion that the Orders of the Day be now called. No. 31.

—Motion to proceed on a particular Order of the Day may be amended by substituting another Order of the Day. No. 120.

—To be proceeded with until an adjournment of the House takes place, though the sitting may be protracted over two or more days. No. 28.

—On a motion to pass over the notices of motion and consider the first Order of the Day, an amendment to discharge the said order of the day, is out of order No 56.

—A member moving an amendment to the Order of the Day, has not the right of reply. No. 57.

PARLIAMENT, MEETING OF See —*Bills, Procedure on.*

PECUNIARY QUESTIONS See.—*Money appropriation; Member; and Petitions.*

PETITIONS FOR PRIVATE BILL See —*Bills. Private*

PETITIONS.

—No remarks can be made by a member in presenting a petition. No. 71.

—With no names appended to the sheet on which the petition was written, cannot be received. No. 91.

- Forwarded by telegraph, and, therefore, containing no real signatures attached, cannot be received. No. 192.
- Cannot be received and read until it has lain on the table two days. No. 25.
- Motion for a Select Committee on a petition for pecuniary compensation is out of order, if the Government declared that it will not be bound by the reference. No. 74.
- No petition, or part of a petition, which ask for pecuniary compensation, can be referred to a Select Committee, unless recommended by the Crown. No. 14.
- Asking for a grant of public money, or aid, and not recommended by the Crown, cannot be received. Nos. 155, 163, 164, 179.
- Praying for the construction of a public work is not to be accounted as a petition asking for a grant of money, and, therefore, requiring the Governor General's recommendation,—but as a petition asking for legislation on a matter of public concern, No. 157.
- For public works, that would necessitate an appropriation of public money, not being recommended by the Crown, cannot be received. No. 180.

#### PREVIOUS QUESTION.

- A member may move the previous question upon his own motion. No. 130.
- Moved upon a motion for the second reading of a Bill, although unusual, is in order. No. 65.

PRIVATE BILLS. See:—*Bills, Private.*

PRIVATE CORPORATION. See:—*Resolutions.*

#### PRIVILEGES.

- House waiving its privileges to expedite public business. No. 5.
- Motion may be made without notice, on a question of privilege. No. 75.
- Motion to discharge a member from further attendance on an Election Committee, cannot be moved before its turn, on the ground of its being a question of privilege. No. 92.

—A matter peculiarly affecting the Employees of the Legislative Assembly, ought not to be referred to a Joint Committee of both Houses. No. 73.

—A prisoner at the Bar of the House having answered to the charge made against him, is allowed to make a statement in relation to the treatment he had received, while under arrest, at the hands of an honorable member. No. 142.

#### PROCESS SERVED ON MEMBERS.

—Bailiffs serving process on members in the lobbies of the House. No. 37.

QUESTIONS TO MINISTERS See:—*Enquiry of Ministers.*

#### QUESTIONS ONCE DISPOSED OF, NOT RENEWABLE.

—Motion for the appointment of a Committee, once disposed of, cannot be renewed during the same session. No. 111.

—Second reading of a bill opposed, on the ground that the same question had already been passed upon during the present session, objection sustained. No. 177.

See also:—*Amendments.*

QUOTATIONS FROM NEWSPAPERS. See:—*Newspaper Quotations.*

RAILWAY BILLS. See:—*Bills, Railway.*

#### REPLY, RIGHT OF.

—Member moving an amendment to the Order of the Day, has not the right of reply. No. 57.

—The mover of an amendment to a motion for the House in Committee of Supply, has not the right of reply. No. 64.

#### RESCINDING A RESOLUTION OF THE HOUSE.

—On motion to concur in an item of Supply, an amendment to rescind a former resolution of the House in the same session, ruled to be in order. No. 24.

RESOLUTIONS IMPOSING AN ASSESSMENT  
ON A PRIVATE CORPORATION.

—Need not be preceded by petition. No. 70.

RESOLUTIONS ON PECUNIARY QUESTIONS.

—A proposed Resolution for a money appropriation, not strictly within the purview of a Bill before the House, cannot be introduced in Committee on the Bill, but must originate in a Separate Committee of the Whole. No. 19.

—Resolutions not recommended by Message from the Crown, recommending that the debt of the former Province of Canada be assigned to the Dominion, and that compensation be given to the Provinces of New Brunswick and Nova Scotia, declared out of order. No. 181

RIGHT OF REPLY, See:—*Reply, Right of.*

SENATE IN PECUNIARY QUESTIONS, POWER  
OF THE. See:—*Bills from the Upper House.*

SITTING OF THE HOUSE, PROTRACTED.

—Orders of the Day to be proceeded with, until an adjournment of the House takes place, though the sitting may be protracted over two or more days. No. 28.

SPEAKER.

—Does not decide questions of convenience. No. 124.

—Does not decide questions of law. Nos. 123, 151.

—Member called to order for characterizing the Speaker's decision as arbitrary. No. 53.

—Called upon to give his vote on a Bill for increasing the representation, declares that he is precluded from voting. No. 12.

—Question of Etiquette in relation to the posture of the Speaker, in presenting an Address to His Excellency the Governor General. No. 105.

SPEECH, MEMBER READING HIS. See:—*Member.*

## SUPPLY.

- Amendment to a motion for going into Committee of Supply does not require notice. No. 133.
- But one amendment can be moved to a motion for the House in Committee of Supply, but the amendment itself may be amended. Nos. 32, 63, 122.
- The mover of an amendment to a motion for the House in Committee of Supply, has not the right of reply. No. 64.
- Amendment to a motion for the House to go again into Committee of Supply, is not irregular because it is complex in its nature. No 154.
- Motion to interfere with the distribution of public moneys already voted must be recommended by the Crown. No 112
- Motion in amendment to an item of supply, to rescind a former resolution of the House in the same session, ruled to be in order. No. 24.
- Amendment to refer back to the Committee of Supply, for re-consideration, an item of the Estimates, which had been reported from this Committee, objection taken that the said item was similar to another item for a like service included in the Supplementary Estimates, and that one or the other of these items must be withdrawn; objection overruled. No. 178.
- Amendment to questions of concurrence in Supply Resolutions must have an affinity with the main motion. An Address to the Crown cannot be moved at this stage. No. 76.
- A Resolution proposed in reference to a supply vote under consideration for concurrence by the House, allowed to be put, though not offered as an amendment. Another motion, proposed as a distinct question, before the House had decided upon the preceding Resolution, decided to be irregular. No 173.

- Amendments (to a motion to receive the report of the Committee of the Whole on a Bill) to increase the amount of a money appropriation beyond the sum recommended by the Governor General, ruled out of order. No. 156,
- A motion to re-commit a Resolution of Supply with the view to consider of granting a subsidy to the construction of the Georgian Bay Canal, declared to be out of order, as it was not recommended by the Crown. No. 199.
- Motion for an enquiry into an alleged abuse, as an amendment to the second reading of the Supply Bill, ruled out of order. No. 77.

TAXATION. See :—*Initiation of taxation.*

TRADE BILLS. See :—*Bills.*

URGENCY. See :—*Motions.*

VOTING. See :—*Member.*

#### WAYS AND MEANS COMMITTEE.

- Amendment to Resolutions of Committee of Ways and Means, must have some affinity with the Resolutions. No. 80.

#### WITNESS EXAMINATION AT THE BAR OF THE HOUSE.

- Motion to postpone the examination of a witness at the Bar of the House, until the next session, ruled out of order. No 83.

WRIT OF ELECTION. See :—*Election Writ.*



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