CLERK ASSISTANT.

C Swan Duffy

May 1878.

words taken down in Committee p. 43

VICTORIA.

# Legislative Assembly.



# STANDING ORDERS & RULES

RELATING TO

PUBLIC BUSINESS, &c. &c.,

PREPARED AND ADOPTED BY

THE LEGISLATIVE ASSEMBLY,

AND APPROVED BY THE GOVERNOR.

WITH NOTES

BY F. L. SMYTH, M.P.,

*Barrister-at-Law, and Chairman of Committees,* 1868-69-70.

SECOND EDITION.

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1874.

TO THE MEMBERS

OF THE

LEGISLATIVE ASSEMBLY OF VICTORIA

THIS MANUAL OF ITS

STANDING ORDERS AND RULES

IS RESPECTFULLY DEDICATED

By F. L. SMYTH,

MEMBER FOR NORTH GIPPSLAND.

## ADVERTISEMENT.

THE First Edition having been exhausted, the opportunity, on the issuing of a second, has been taken to correct some errors which in the hurry of publication crept into the former one. Nearly two hundred more Notes have been added, and the rulings of the Speakers of the Legislative Assembly in this Colony and of the House of Commons in England have been brought down to the present date.

MARCH, 1874.

# PREFACE TO THE FIRST EDITION.

THE Notes to this edition of the Standing Orders and Rules contain the salient points of the practice of the Legislative Assembly. Originally intended for private use, they are now placed in the printer's hands in the expectation that they may prove of some value to the new Members of the coming Parliament.

The authorities chiefly consulted and referred to are "Hatsell's Precedents," "May's Parliamentary Practice," "Burke's Parliamentary Precedents," "Todd's Parliamentary Government," "Palgrave's Lectures," "Journal of the House of Commons," and the English and the Victorian Hansards.

A reluctance to swell the manual to undue dimensions has confined the Notes to those subjects which are of most practical importance, viz., Motions, Debate, Bills, Petitions, Committees of the Whole, Ways and Means, Supply, &c. It remains only to add, that a desire to supply, *at the earliest period*, a want which was likely to be experienced, must plead an apology for casual errors and deficiencies.

3 EVELYN STREET,
VICTORIA PARADE.

New Zealand S.O. 390 - "Any Stand'g Order of Orders of the House may be suspended on Motion without notice: Provided that two thirds of the members be present, but notice shall always be given when practicable

re Admission of Visitors to Parliament House - V.P.D. 14 July '87 p. 387.

re front Council Seat in Leg: Assembly - Letter from the Hon: the President
V.P.D. 31 July '84 page 831

Report of Sel: Comm on Reporting in H: Comms - 1878-9 Vol. 12 - 537

deb: re press gallery - & Speaker's rulings in re } V.P.D 11 Oct '88

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# INTRODUCTION.

THE power, from time to time, to prepare and adopt Standing Orders and Rules for the conduct of all business and proceedings in the Legislative Council and the Legislative Assembly, severally and collectively, is conferred on the Council and the Assembly by Section 34 of the Constitution Act, 19 Victoria. That Act is entitled, "An Act to establish a Constitution in and for the Colony of Victoria." It was reserved for the Royal Assent 25th March, 1854, and the Royal Assent was proclaimed the 23rd November, 1855. Section 1 enacts, "That there shall be established in Victoria, instead of the Legislative Council now subsisting, one Legislative Council and one Legislative Assembly, to be severally constituted in the manner hereinafter provided, and that Her Majesty shall have power, by and with the advice and consent of the said Council and Assembly, to make laws in and for Victoria in all cases whatsoever."

Subsequent Sections provide for the number, mode of election, qualification, and disqualification, &c., of the Members of both Houses.

Section 34 enables the Council and Assembly, in the first session of each respectively, and from time to time afterwards, as there shall be occasion, to prepare and adopt Standing Rules and Orders generally, amongst other specific purposes, "for the conduct of all business and proceedings in the said Council and Assembly, severally and collectively;" which Rules and Orders are to be approved of by the

Governor in manner as therein provided, and that "until such Standing Rules and Orders shall be adopted, resort shall be had to the Rules and Forms and Usages of the Imperial Parliament of Great Britain and Ireland, which shall be followed so far as the same may be applicable to the proceedings of the said Council and Assembly respectively; provided that no Standing Rule or Order which shall affect the communication between the said Council and Assembly, or the proceedings of the said Council and Assembly collectively, shall be of any force unless the same shall have been adopted both by the said Council and said Assembly."

By Section 35 it is enacted that, "It shall be lawful for the Legislature of Victoria by any Act or Acts to define the privileges, immunities, and powers, to be held, enjoyed, and exercised, by the Council and Assembly, and by the Members thereof respectively; provided that no such privileges, immunities, and powers, to be held, enjoyed, and exercised by the Council and Assembly, and by the Members thereof respectively, shall exceed those held, enjoyed, and exercised by the Commons House of Parliament or the Members thereof."

Under Section 60 power is given to the Legislature of Victoria from time to time to alter the Act. In pursuance of that power various alterations have been made, but none to affect directly the above Sections relating to the preparing and adopting of Standing Rules and Orders. (See Vol. I. Consolidated Acts, title "Constitution," pp. 317—342.) Rules and Orders have been made by both Houses in pursuance of the powers vested in them respectively, under Section 34 above referred to. (For Legislative Council's Rules and Orders, see Vol. I. Consolidated Acts, pp. 333—340.) The annexed Orders and Rules are those which have been adopted by the Legislative Assembly.

The last of these Orders (Order CCLXXXV.) directs, "That in all cases, not herein provided for, resort shall be had to the Rules, Forms, Usages, and Practice of the Commons House of Parliament of Great Britain and Ireland, which shall be followed so far as the same may be applicable to the Assembly, and not inconsistent with the foregoing Rules." Under this Order, therefore, the Rules, Forms, Usages, and Practice of the House of Commons, in force or operation *at the time*

*of making the above Order*, are binding on the Legislative Assembly, subject to the limitations fixed by the Order. In pursuance also of the above-mentioned Section 34 of the Constitution Act, Joint Standing Orders and additional Joint Standing Orders have been made, but these are of a mere formal character and chiefly relate (1) to the mode in which communication is to be carried on between the two Houses, when such communication shall become necessary; and (2) the correcting of clerical and typographical errors in Bills, and the attaching and indorsing of amendments to Bills, and printing and disposal, &c., of same after they have come under the consideration of both Houses and the Governor respectively. (See Joint Standing Orders and Rules and Additional Joint Standing Orders and Rules, pp. 132, 137.)

Independently of the powers conferred on the Council and Assembly to make Orders and Rules, a power, by Section 36 of the Constitution Act, is conferred on the Governor "to transmit by message to the Council or Assembly for their consideration any amendment which he shall desire to have made in any Bill presented to him for Her Majesty's Assent; and all such amendments shall be taken into consideration in such convenient manner as shall by the Orders and Rules aforesaid be in that behalf provided." Joint Standing Order XV. regulates the procedure on presenting all Bills to the Governor; XVI. *Ib.*, the procedure on Bills returned by the Governor with amendments; and XVII. *Ib.*, the disposal of all Bills which the Governor shall have assented to in the name of Her Majesty.

As regards the general powers, immunities, and privileges possessed by the Victorian Legislature. By the Imperial Statute the 18th and 19th Victoria, c. 55, Sec. 35, power was given to Her Majesty to assent to a Bill of the Legislature of Victoria to establish a Constitution in and for the Colony of Victoria. The assent of the Crown, as mentioned above, was accordingly given to such Bill. The Bill is contained in a Schedule to the Imperial Act, and the 35th Section in the Bill, which has the force of an Act of Parliament, runs thus:—"It shall be lawful for the Legislature of Victoria, by an Act or Acts, to define the privileges, immunities, and powers to be held,

enjoyed, and exercised by the Council and Assembly, and by the Members thereof respectively, provided that no such privileges, immunities, or powers shall exceed those now held, enjoyed, and exercised by the Commons House of Parliament or the Members thereof." Acting in the execution of the power thereby given, the Legislature of Victoria passed the Act 20 Victoria, No. 1, on the 25th February, 1857, which, after reciting the Imperial Act, or the Act scheduled in the Imperial Act, proceeded by the first section to enact these words, "The Legislative Council and the Legislative Assembly of Victoria respectively, and the Committees and Members thereof respectively, shall hold, enjoy, and exercise such and the like privileges, immunities and powers as, and the privileges, immunities, and powers of the said Council and Assembly respectively, and of the Committees and Members thereof respectively, are hereby defined to be the same as at the time of the passing of the said recited Act were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and Members thereof, so far as the same are not inconsistent with the said recited Act, whether such privileges, immunities, and powers were so held, possessed, or enjoyed by custom, statute or otherwise." In the case of Dill *v.* Murphy (Moore P. C. C., N.S., 487,) it was determined that the exercise in the colony of such a power as has been given by the Imperial Statute has been a good exercise of that power, and has sufficiently carried over to the Council and Legislative Assembly of the Colony the powers which are compendiously described in the section as "the like privileges, immunities, and powers as were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and Members thereof." Lord Cairns in the case of the Speaker *v.* Hugh Glass, referring with approval to the above decision, added, "It was not necessary to specify in detail those powers; it was sufficient to refer to them as the powers of the House of Commons; and that the privileges of the House of Commons must be taken notice of judicially." (See Judgment of the Privy Council, per Lord Cairns, in "The Speaker of the Legislative Assembly of the Colony of Victoria *v.* Hugh Glass," 7 Moore P. C. C., p. 462, *et seq.*; A. J. R., Vol. II., p. 21; and *Argus*, 14th April, 1871.)

As to the powers, privileges, and jurisdiction of the English Parliament, see May's P. P., 7th edition, Chaps. II. to VI., inclusive; and as to privileges possessed or claimed by the Legislative Assembly in relation to Money Bills brought to it from the Legislative Council, or returned by the Legislative Council to it. (See Chap. XVII. of these Orders, tit. Supply and Ways and Means, Order CCLXXIII., and note thereto.)

Hugh George, printer & Argus, excl at the bar, 20 March 1866, a question was raised as to the shorthand writer taking the evidence at the Table, finally he was permitted to remain 1 V.P.D. 347.

VICTORIA.

# Legislative Assembly.

# STANDING ORDERS & RULES

RELATING TO

# PUBLIC BUSINESS.

*(Approved 28th July, 1857.)*

WITH NOTES.

*N.B.—The Rules printed in Roman type are the Standing Orders of the Assembly—The Rules printed in italics apply to the practice of the Assembly, and are inserted for information of Members.* H. *stands for "Hansard" (English;)* V. H., *for "Victorian Hansard;"* C. J. *"Commons' Journal;"* L. J., *"Lords' Journal;"* S., *series;* N. S., *new series.*

## CHAPTER I.

### PROCEEDINGS ON OPENING OF PARLIAMENT.

1. *On the first day of the meeting of the new Parliament for the despatch of business, pursuant to the Governor's proclamation, Members being assembled at the time and place appointed, the Clerk of the Assembly will read the proclamation.* *Clerk reads proclamation.*

As regards the powers, immunities, and privileges possessed by the Victorian Legislature, see Introduction, p. xxvi., Dill *v.* Murphy, 1 Moor, P.P.C., N. S., p. 487, and The Speaker *v.* Hugh Glass, judgment of the Privy Council, per Lord Cairns, 7 Moore, P.P.,

p. 462. As to the privileges possessed or claimed by the Legislative Assembly, in relation to money bills brought to it from the Legislative Council, or returned by the Legislative Council to it, see Chap. XVII., tit. Supply and Ways and Means, Order CCLXXII., and note thereto.

*Members await a message from the Commissioners.*

2. *The Members will await a message from the Commissioners appointed by the Governor for opening the Parliament.*

*House proceeds to Council Chamber.*

3. *On receiving message from the Governor's Commissioners for opening the Parliament, the Members of the Assembly will proceed to the Council Chamber to hear the Commission read.*

*Commissioner for swearing Members introduced.*

4. *The Assembly being returned into their own House, a Commissioner appointed by the Governor for swearing Members will be introduced, and the Commission read by the Clerk.*

One of the Judges of the Supreme Court is the person who is usually appointed as a Commissioner for swearing-in Members. See form of Commission, Votes and Proceedings, Sess. 1868, pp. 1, 2; and like form of Commission to the Speaker (*Ib.* p. 19,) for swearing in such Members as have not been sworn in under the previous Commission.

*Writs, with returns endorsed thereon read by the Clerk.*

5. *The writs for general election having been previously delivered to the Clerk of the Assembly, will, with the returns endorsed thereon, then be read by the Clerk.*

The Clerk is not the Clerk of the Members individually, but of the House collectively (2 Hats., p. 112, note *.) He receives orders only through the Speaker, and not from Members directly (2 Hats., p. 271.) It is he who informs the House when the Speaker is unable to attend by reason of illness or other unavoidable circumstance. (207 H., p. 220.)

Proceedings on Opening of Parliament.

Proceedings on Opening of Parliament.

May 9th ed: p 199

ib. p. 200

6. *Members will then be sworn as prescribed by the "Constitution Act."* *Members sworn.*

By Sec. 32 Constitution Act—"No Member either of the Council or of the Assembly shall be permitted to sit or vote therein respectively until he shall have taken and subscribed before the Governor or before some person authorised by the Governor in that behalf set forth in the schedule hereunto annexed marked C (oath of allegiance;) and every person authorised by law to make an affirmation instead of an oath may make such affirmation in every case in which an oath is herein required to be taken."

Sec. 11—Requiring in Members of the Legislative Assembly a property qualification, and Sec. 31—Requiring a declaration to be made of such qualification before a Member could take his place have been repealed by 21 Vic., No. 12. A member taking his seat in the Legislative Assembly without having taken the oath prescribed by the Constitution Act, would be regarded as a stranger (V. H., N. S., Vol. V., pp. 49, 55, *et seq.*) and liable to the consequences of intrusion (Orders XII. and CVII.) But though he may not sit until he has taken the oaths, he is entitled to all the other privileges of a Member. (Cases of Sir Joseph Jekyll, Baron Rothschild, and Baron L. N. de Rothschild, May's Parliamentary Practice, p. 200, 7th ed.) Reimbursement, however, of expenses in relation to attendance in the discharge of Parliamentary duties, under the recent Act, becomes payable only from the time of the Member taking his seat (34 Vic., No. CCCLXXXIII., Section 1.) And his name should not appear in the printed lists for divisions. (V. H. Vol. XII., p. 313.)

I. At the opening of Parliament, after the Members present have been sworn, a Member, addressing himself to the Clerk, shall propose some Member, then present, to the House, for their Speaker, and move that such Member "Do take the Chair of the House as Speaker." A Member proposed as Speaker.

II. If only one Member be proposed and seconded as Speaker, he shall be called to the Chair of the House without question put. When unopposed such Member called to the Chair.

*He submits himself to the House.*

7. *The Member on being called to the Chair in his place expresses his sense of the honour proposed to be conferred upon him, and submits himself to the House.*

When election of Speaker is opposed.

III. If more than one Member be proposed as Speaker, the Clerk of the Assembly shall, in the order in which the Members shall have been proposed, put the question, "That Mr. ——— do take the Chair of this House as Speaker;" which shall be resolved in the affirmative or negative.

In England the Speaker is appointed by the Commons at the desire of the Crown (May's P. P., p. 186, 7th ed.,) but by the 20th Sec. of the Constitution Act, "The Legislative Assembly of Victoria shall, at its first Meeting after every general election and before proceeding to the despatch of any other business, elect a Member of such Assembly to be Speaker: and in case of his death, resignation, or removal by a vote of the Assembly, shall forthwith proceed to elect some other Member to be Speaker, and the Speaker so elected shall preside at the meetings of the Assembly, except as may be provided by the standing rules and orders hereby authorised to be made."

And by Sec. 21 (repeated in Order CIX. *infra*) his right to vote is controlled and a casting vote only is conferred. "All questions save as herein excepted which shall arise in the Assembly shall be decided by the majority of Members present other than the Speaker and when the votes shall be equal the Speaker shall have the casting vote." Under the above Sec. 20 of the Constitution Act the power to elect a Speaker is conferred on the Assembly. Orders I., II., III. above, and Rules 7 and 8, may be considered as Orders and Rules regulating the practice pursuant to the power so conferred, and framed upon the immemorial practice established in the English House of Commons. Until the appointment of a Speaker the House does not proceed to business, except that of the preliminary character prescribed by the preceding Orders and Rules (V. H., Vol. VI., p. 15.) After a Prorogation none of the preliminary business is required to be done. *(Ib.)*

*Mr. Speaker takes the Chair, and the mace is laid upon the table.*

8. *Having been conducted to the Chair, the Member elected returns his acknowledgement to the House for the honour conferred upon him, and thereupon sits down in the*

Proceedings on Opening of Parliament.

May 9th ed b 201

Speaker having resumed the Chair
Mr Ouellet for adj't q. H.
44 C. J. 434
56 C. J. 33

May 9th ed b 201

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*Chair ; and then the mace, which before lay under the table, shall be laid upon the table.*

In his lectures on the House of Commons, Mr. Palgrave, remarking upon the power and duties of the Speaker, observes that "The Speaker never opens his lips save when called on by his duty. It is an old rule, 'that Speakers may not sway debate by argument.' He is called Speaker because he speaks for, not to the House : he is the mouthpiece on all State occasions" (*Ib.* p. 68.) But, while in the Chair, the Speaker is restrained by usage in the exercise of his independent judgment ; in a committee of the whole House he is entitled to speak and vote like any other person. Of late years, however, he has abstained from the exercise of his right. The most recent occasions on which that right was exercised on public questions were—in 1821, when Mr. Speaker Manners-Sutton spoke in committee on the Roman Catholic Disability Bill (4 H., N. S., 1451 ;) and, again in 1825, in committee on a similar Bill (13 *Ib.*, 434 ;) and again in 1834, in committee on the Bill for Admitting Dissenters to the Universities (23 H., 3rd S., 1092 ;) and on 21st April, 1856, Mr. Speaker Shaw Lefevre spoke and voted in committee of supply on the vote for the British Museum ; and on the 9th June, 1870, Mr. Speaker Denison spoke and voted in committee on the Customs and Inland Revenue Bill. The present Speaker of the House of Commons also addressed the House on the subject of horses employed in agriculture (H. 200, 3rd S., pp. 1805-16.) See other instances, May's Practice of Parliament, (pp. 368-9, 7th ed.) Several of the following Orders and Rules have been framed for the guidance and conduct of the Speaker of the Legislative Assembly. Thus, it is his duty, if at the expiration of half an hour after the time appointed for the meeting of the Assembly, a quorum be not present, to adjourn the House till next sitting day (V.) If it appear on notice taken, or on report of a division, that a quorum be not present, he adjourns the House till next sitting day (IV.) And, in like manner, when the Chairman of Committees of the whole House reports that a quorum of Members is not present in the Committee, the Speaker counts the House and adjourns it (X.) He calls upon Members to speak when more than one rises (LXXVI.,) and Members whilst speaking are bound to address themselves to him (LXXIII.) He puts the question and states whether in his opinion the "ayes" or "noes" have it (LVII.) If his opinion be not

acquiesced in, a division ensues (*Ib.*,) and on a division he puts the question, and directs the "ayes" and "noes" to go to the right and left of the House respectively (CXIII.,) and upon the numbers being reported to him he declares them to the House (R. 30,) and gives a casting vote when there is an equality of votes (Sec. 21, C. A., and order CXIX.) With the House, he goes up to the Legislative Council to hear the Governor's Speech (R. 2,) and on his return to the Legislative Assembly reports and reads it (R. 14,) and part of it again is read by him on the House proceeeding to consider and debate same (R. 20.) To him all messages from the Governor are formally delivered, which he announces to the House (CLXXXVII.) It is his duty to maintain order (CIII.,) and objectionable words used in debate are by him directed to be taken down; he calls upon the disorderly member by name (CI.) When he gives an opinion it is considered to be the opinion of the House, unless by an expression of dissent or a vote the House overrules his opinion (V. H., Vol. VI., p. 152.) Through him witnesses are examined at the bar (CLXXXIII. and CLXXXIV.) He announces to the House when any seats become vacant, and by him all writs issue for elections for seats which have become vacant, between a general election and a dissolution of Parliament, and to him the returns are made, which also he announces to the House. But a copy of the order of the House, and not a writ signed by the Speaker, is issued for summoning parties or witnesses to the bar of the House. And it lies with the law officers, and not with the Speaker or Chairman of Committees, to say whether Committee's Amendments violate the Constitution Act; and to advise the House on the construction of Acts of Parliament (V. H., Vol. X., p. 920; *Ib.* 15, p. 2351) and all matters of law. (H. 207, 3rd ed., p. 1346.)

*New Members introduced.*

9. *A Member returned after a general election shall be introduced to the table between two Members.*

*But not if seated on petition.*

10. *Members seated on petition need not be introduced.*

Unavoidable absence of Mr. Speaker.

IV. Whenever the Assembly shall be informed by the Clerk at the table of the unavoidable absence of Mr. Speaker, the Chairman of Committees of the Assembly shall perform

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In England the appt of a Deputy Speaker is regulated by Act 18 & 19 Vict: Cap: 84

the duties and exercise the authority of Speaker, in relation to all proceedings of the Assembly, as deputy Speaker, until the next meeting of the Assembly, and so on from day to day on the like information being given to the Assembly, until the Assembly shall otherwise order: Provided that if the Assembly shall adjourn for more than twenty-four hours, the deputy Speaker shall continue to perform the duties and exercise the authority of Speaker for twenty-four hours only after such adjournment.

See May p. 248

On the second day of December, 1869, in consequence of illness of the Speaker of the Legislative Assembly, the Chairman of Committees, under the above Order, took the Chair. On the motion of Mr. Gladstone and seconded by Mr. Disraeli, the present Speaker was allowed to absent himself for the purpose of receiving the Degree of Civil Laws, from the University of Oxford, and the Chairman of Committees during the Speaker's absence took the Chair. (H. 202, 3rd S., p. 495.) As to the appointment of Chairman of Committees, see Order CXXIV. and note thereto.

11. *On the receipt of a message to attend the Governor in the Council Chamber, the Speaker with the House will proceed to the Council Chamber.*

*Mr. Speaker with the House proceeds to the Council Chamber.*

When the Governor has intimated his intention of meeting the Assembly either at Government House or the Legislative Council, and had fixed an hour, the late Speaker made it a custom without dissent of the House, to take the Chair and proceed to meet the Governor, although a quorum to make a House was not present. On the 2nd February, 1859, the late Speaker said, "I took the Chair at three o'clock but the Governor did not come, I did not adjourn the House because I had not the power to adjourn. I said I would sit at the usual hour, four o'clock, and I did not allow any business to be done." (MS. note.)

12. *Mr. Speaker and the House, on returning from the Council Chamber, pass through the House, and the House may then adjourn during pleasure.*

*House adjourns during pleasure.*

*A Bill read* pro formâ.

13. *Before the Governor's Speech is reported to the House by Mr. Speaker, some Bill is read a first time* pro formâ.

The Order is founded on the ancient custom of the House of Commons, England. The reason for the practice is to assert the right to deliberate without reference to the immediate causes of summons (May's Practice of Parliament, p. 199, 6th ed.) No debate is allowed on the first reading of a Bill. (CCXXVIII.)

*Mr. Speaker reports His Excellency's Speech.*

14. *Mr. Speaker will then report that the House had this day attended the Governor in the Council Chamber, and that His Excellency was pleased to make a Speech to both Houses of Parliament, of which Speech Mr. Speaker said he had, for greater accuracy, obtained a copy, which he will then read to the House.*

*Motion for an Address in Answer.*

15. *The Speech having been read, a motion for an Address to His Excellency the Governor shall be made and seconded.*

Upon the motion for an Address, important debates have arisen, and sometimes the fate of a Ministry decided, as any alteration in the Speech is tantamount to a vote of want of confidence (3 V. H., p. 19, ; 10 *Ib.*, p. 32.) A resolution for a reply to the Governor's Speech can not be submitted paragraph by paragraph ; nor can a motion on each paragraph be submitted ; but an amendment may be proposed on any portion of the resolution. (Vol. X., p. 23.)

*Select Committee appointed to draw up the Address.*

16. *The resolution for presenting such Address having been agreed to by the House, with or without amendments, a Select Committee shall be appointed to draw up an Address to be presented to the Governor upon the said resolution, and His Excellency's Speech shall be referred to the said Committee.*

During the adjournment of a debate on an Address, the House can proceed with other business. (C. J., 114, p. 205.)

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17. *On the Address being reported by the said Committee, the House will resolve to agree to the same, with or without amendments.*

*Address reported and agreed to.*

It is too late on motion, "that an Address be agreed to," to propose amendments. They should be proposed either when a motion is made, "that an Address be presented and prepared by a Committee," or when the Committee bring up the Address, and it has been read a second time. (V. H., Vol. II., p. 35.)

18. *The Address in reply to the Governor's Speech shall be ordered to be presented to the Governor, at Government House, by the Assembly.*

*Address to be presented by the Assembly.*

19. *The Governor's Speech shall be ordered to be taken into consideration at the next sitting of the House.*

*Governor's Speech to be taken into consideration.*

20. *The House at its next sitting, according to order, shall proceed to take the said Speech into consideration, and so much of the same as was addressed to the branch of the Legislative Assembly shall be again read by Mr. Speaker; and a motion being made that a supply be granted to Her Majesty, a resolution shall be agreed to, that the House will to-morrow, or on a future day, resolve itself into a Committee to consider the motion.*

*Governor's Speech considered, and motion made that a supply be granted to Her Majesty.*

As to "Supply," and "Ways and Means," see Chap. XVII., Orders CCLXXIII. to CCLXXXV., *post.*, and "Appropriation Bill," Order CCLXXXIX., and notes thereto respectively, *post.*

## CHAPTER II.

### SITTING AND ADJOURNMENT OF THE HOUSE.

If a quorum of Members be not present half an hour after the time fixed for meeting, Mr. Speaker adjourns the House.

V. Mr. Speaker shall take the Chair as soon after the hour appointed for the meeting of the Assembly as there shall be a quorum of Members present; but if at the expiration of half an hour after the hour appointed there be not a quorum, Mr. Speaker shall then take the Chair and adjourn the Assembly to the next sitting day.

See Note Order VI. A quorum is twenty members, exclusive of the Speaker. A message from the Crown or the Queen's Commissioners, or from the Governor, always constitutes a quorum. (V. H., Vol. VI. p. 15.)

*House proceeds to business on its return from the Council.*

21. *When the attendance of the House in the Council has been desired, the House on its return will proceed with business, although less than a quorum be present, until notice be taken thereof.*

If a quorum be not present on the report of a division, Mr. Speaker adjourns the House.

VI. If it shall appear, on notice being taken, or on the report of a division of the House by the tellers, that a quorum of Members be not present, Mr. Speaker shall adjourn the House, without a question first put, till the next sitting day.

Before the House is counted the bells are rung, and a three minutes' glass turned, but the doors are not shut (XI., CXI., and CXII.) Members themselves occasionally agree not to form a House, and more frequently resort to a "Count out," especially when they want to terminate a disagreeable discussion, to silence an obnoxious debater, or to adjourn on account of the lateness of the hour to which the debate has been protracted. The business under discussion has precedence next day. (VII.)

Sitting and Adjournment of the House.

Sect. 21 Constr. Act

46 Parl Deb. 906

Sitting and Adjournment of the House.

On 20 Oct '85 Col Smith moved adj't deb: on Federal Bill negatived. After Cortes spoke Col Smith again rose to move adj: Speaker said he would not do so

If a quorum be present see S.O. 139

VII. The business under discussion, and any business not disposed of at the time of such adjournment, shall take precedence of all business fixed for the next day on which the House shall sit.

Business under discussion and that not disposed of to take precedence next business day.

VIII. Except in the cases mentioned in Nos. V., VI., and X., when Mr. Speaker adjourns the House without putting a question, the House can only be adjourned by its own resolution.

House only adjourns by its own resolution, with exceptions.

*(Approved, 10th July 1882.)*

No Member, unless he be a Minister of the Crown, shall be allowed, prior to eleven o'clock, to move "That the House do now adjourn," unless on his rising to make such motion he shall state the subject that he proposes to speak to, and the debate shall be strictly confined to the subject so stated.

Quorum of Committee of the whole House.

The same as Order CXXV., except the words "Exclusive of the Chairman," is inserted in the latter order.

X. If the Chairman of a Committee of the whole House shall report to the House that a quorum of Members be not present, Mr. Speaker shall count the House, and if a quorum be not present, he shall adjourn the House without a question first put, till the next sitting day.

When Chairman of Committees reports that a quorum of Members is not present.

See note Order VI.

XI. The doors of the House shall be unlocked whenever Mr. Speaker is engaged in counting the House, and the bells shall be rung as in a division.

Doors unlocked when House is counted.

See note Order VI.

VII. The business under discussion, and any business not disposed of at the time of such adjournment, shall take precedence of all business fixed for the next day on which the House shall sit.

Business under discussion and that not disposed of to take precedence next business day.

VIII. Except in the cases mentioned in Nos. V., VI., and X., when Mr. Speaker adjourns the House without putting a question, the House can only be adjourned by its own resolution.

House only adjourns by its own resolution, with exceptions.

As to the adjournment of the House on its own resolution, so as to supersede a question, see Order L. and note thereto. The practice of the House of Commons is to allow any questions to be asked, and any amendments to be moved on the motion, "that the House at its rising do adjourn to some other day." (170 H., pp. 1907, 1976; see also 145 H., p. 1200.)

IX. The same number of Members shall be required to form a quorum in Committee of the whole Assembly as are required to form a quorum of the House.

Quorum of Committee of the whole House.

The same as Order CXXV., except the words "Exclusive of the Chairman," is inserted in the latter order.

X. If the Chairman of a Committee of the whole House shall report to the House that a quorum of Members be not present, Mr. Speaker shall count the House, and if a quorum be not present, he shall adjourn the House without a question first put, till the next sitting day.

When Chairman of Committees reports that a quorum of Members is not present.

See note Order VI.

XI. The doors of the House shall be unlocked whenever Mr. Speaker is engaged in counting the House, and the bells shall be rung as in a division.

Doors unlocked when House is counted.

See note Order VI.

Strangers to be taken into custody if in parts of the House appropriated to Members.

XII. The Serjeant-at-Arms attending the House shall from time to time take into his custody any stranger whom he may see, or who may be reported to him to be in any part of the House appropriated to the Members of this House, and also any stranger who, having been admitted into any other part of the House or gallery, shall misconduct himself, or shall not withdraw when strangers are directed to withdraw, while the House, or any Committee of the whole House is sitting; and no person so taken into custody shall be discharged out of custody without the special order of the House.

No Member to bring a stranger into such parts of the House unless by order.

XIII. Unless by order of the House, no Member of this House shall presume to bring any stranger into any part of the House appropriated to the Members of this House, while the House, or a Committee of the whole House, is sitting.

The House, on the occasion of the Intercolonial Conference in sessions 1867, ordered seats to be placed for members of the Conference who visited the House in the part of the House appointed to Members (V. H., Vol. III., N. S. p. 88.) And a like courtesy was exhibited to Sir Alfred Stephen, the late Chief Justice of N.S. Wales. (Sess. 1873.)

Votes and proceedings.

XIV. Every vote and proceeding of the House shall be noted by the Clerks at the table, and the Votes and Proceedings of this House shall, being first perused by Mr. Speaker, be printed; and the Government Printer and no other do presume to print the same, and the Votes and Proceedings so printed from day to day, and signed by Mr. Speaker, and countersigned by the Clerk, shall be the Journals of this House.

Sitting and Adjournment of the House.

Never done by Mr Barker on the printed circulated copies.

Attendance of Members.

# CHAPTER III.

## ATTENDANCE OF MEMBERS.

XV. Every Member shall attend the service of the House, unless leave of absence be given him by the House.

Every Member to attend the service of the House.

On ordinary occasions the attendance of Members is not enforced by any regulation. Members, however, cannot be absent, without leave, from Parliament one whole session at a time without forfeiture of their seats. (Constitution Act, 19 Vic., Sec. 24. See next four Orders.)

XVI. Leave of absence may be given by the House to any Member on account of his own illness, or of the illness or death of a near relation, or of urgent business, or for other sufficient cause to be stated to the House.

Leave of absence.

A motion is made in the House by some other Member on his behalf, and the question put by the Speaker to the House.

XVII. Notice shall be given of a motion for giving leave of absence to any Member, stating the cause and period of absence.

Notice to be given of motions for leave of absence.

XVIII. A Member shall be excused from service in the House, or on any Committee, so long as he has leave of absence.

Members having leave of absence excused from service.

XIX. Any Member having leave of absence shall forfeit the same by attending the service of the House before the expiration of such leave.

Leave of absence forfeited.

Calls of the House.

XX. When an order shall be made that this House be called, such Members as shall not attend the call, shall be sent for in the custody of the Serjeant-at-Arms.

The next Order XXI. fixes the time to intervene from date of order to day of call. But a call of the House is of little avail in taking the sense of the House, as there is no compulsory process by which Members can be obliged to vote.

Call of the House not to be made earlier than seven days from date of order.

XXI. No order for a call of the House shall, except upon pressing necessity, be made for any day earlier than seven days from the date of such order, inclusive of the day of such order.

Order for call of the House to be forwarded by post.

XXII. A copy of the order for a call of the House, signed by the Clerk, shall be forwarded by post, addressed to each Member of the Assembly.

Members to leave their address with Serjeant-at-Arms.

XXIII. For the purpose of enabling this notice to be given, every member shall at the commencement of each Session, or as soon as he shall have taken his seat, enter his name and address in the book to be kept by the Serjeant-at-Arms.

Call of the House an Order of the Day.

XXIV. The order for calling over the House on a future day, shall be set down as an Order of the Day for the day so appointed.

Order in which names are called.

6th March, 1860.

XXV. When the Order of the Day for calling over the House shall be read, unless the same be postponed or discharged, the names of the Members shall be called over by the Clerk in the alphabetical order of the several electoral districts they represent.

Members not present but subsequently attending.

XXVI. The names of all Members who do not answer when called shall be taken down by the Clerk, and subsequently called over a second time, when those who answer,

# Attendance of Members.

Call made to consider State aid abol^n bill - 1869
q P. Deb.: 2064. 2313

In 1861 there were 2 calls of the L. A.

# Attendance of Members

or afterwards attend in their places on the same day, may be excused.

22. *Members not attending in their places on the same day are usually ordered to attend on a future day; when, unless they attend, or a reasonable excuse be offered for their absence, they will be dealt with for their default as the House may think fit.*

*Members not attending during the day.*

See note Order XX.

# CHAPTER IV.

## PLACES OF MEMBERS.

Members' places secured.

XXVII. A Member may be permitted to secure a place in the Assembly Chamber by leaving a book, hat, or glove upon it, before motions are called on.

This rule has been framed from the English practice (May, p. 207, 7th ed.) But the actual practice of the Legislative Assembly is, that upon the opening of a new Parliament, Members who are desirous of securing a particular place, affix their card to the back of the seat which they desire to occupy. By courtesy such seats are thus secured, not merely for the particular day upon which the card has been fixed, but throughout the whole Sessions; and in certain special cases (old Members) throughout the whole Parliament (See R. 23.) This practice has arisen from the limited number of which the Legislative Assembly consists.

30 P.D. p. 20

Entering and leaving the House.

XXVIII. Every Member to be uncovered when he enters or leaves the House, or moves to any other part of the House during a debate, and shall make obeisance to the Chair in passing to or from his seat.

*Ministers' and Ex-Ministers' benches.*

23. *The front bench on the right hand of the Chair shall be reserved for Members holding office under the Crown, and the front bench on the left hand of the Chair is ordinarily occupied by Members who have held office under the Crown.*

19 P.D. 1324

In cases where it is necessary to read papers, Ministers are at liberty to speak standing at the table of the House on the Ministerial side, and Ex-Ministers at the opposite side. All other Members speak from their seats. (~~1 V. H.~~ 9 P.D., p. 2694; *Ib.*, P.D. Vol. X., p. 12; *Ib.*, p. 1028.

/9

# Places of Members.

As to places of Members in Commons
9th ed May p. 226 &c.

On 16 Nov: '80 Kennot objecting to Shiels address S.H. fr the Table - Speaker sd "I am not aware of any rule on subject" 34 P.D. 799.
V.P.D. 10 Sept '85 p. 1055.

On 30 Sept '85 same questn raised re Mr Harper - Speaker ruled that only Ministers in ch of bill & leader of Opp: entitled to write at table V.P.D. 1293

On 16 Nov 2 '86 Gannon called attention to Shiels & Hunt writing at table - Speaker ruled against the practice V.P.D.
also 14th & 18th Nov '86

Places of Members.

no one to write at the Table or set up a foot
2 Hats. 236.

McLellan & Woods complained of the Serjt.
enforcing this Order no. 31. Speaker supptd
the Serjt. 10 June 1886. V.P.D. 234

XXIX. No Member shall pass between the Chair and any Member who is speaking; nor between the Chair and the table, nor between the Chair and the mace when the mace has been taken off the table by the Serjeant. Members leaving their seats.

XXX. Every Member of this House when he comes into the House shall take his place, and shall not stand in any of the passages or gangways. Entering the House.

XXXI. No Member shall read any newspaper, book, or letter, in his place, unless in addressing the Chair. Members not to read newspapers, &c.

The above Order is generally observed, but the occasional violation of it is not made a matter of observation, except in the case of a studied affront. (3 V. H., p. 394.)

## CHAPTER V.

### ORDERS OF THE DAY, NOTICES, MOTIONS, AND QUESTIONS.

*Notices of Motion and Orders of the Day.*

24. *The ordinary business of each day consists of Notices of Motion and Orders of the Day.*

Motion for the production of papers—liberty to bring in bills, &c., are examples of motions (See Votes and Proceedings of the Legislative Assembly for various other examples.) Orders XXX. to L. inclusive, regulate the practice with regard to Motions. An Order of the Day is defined by the next Rule (25.)

*Orders of the Day defined.*

25. *An Order of the Day is a Bill or other matter which the House has ordered to be taken into consideration on a particular day.*

Orders of the Day can be postponed on motion to the consideration of general business not otherwise entitled to priority (V. H., Vol. XII., pp. 576-7.) An amendment to an Order of the Day must be relevant to the question to which the Order of the Day refers. (V. H., Vol. X., p. 390.)

Notices of Motion take precedence.

XXXII. Notices of Motion shall, except on days appointed by the House for Government business taking precedence, take precedence of Orders of the Day, unless the House shall otherwise direct.

See Note Order XXXIV. It is not in order to discuss a motion which is set down on the Notice Paper for a future occasion. (V. H., Vol. X., p. 364.)

Clerk to read the Orders of the Day without any question being put.

XXXIII. After Notices of Motion shall have been disposed of, Mr. Speaker shall direct the Clerk at the table to read the Orders of the Day, without any question being put.

Orders of the Day, Notices, Motions & Questions.

Orders of the Day, Notices, Motions, and Questions.

XXXIV. The Orders of the Day shall be disposed of in the order in which they stand upon the paper; the right being reserved to Her Majesty's Ministers of placing Government Orders at the head of the list, in the rotation in which they are to be taken on the days on which Government business has precedence.

Government Orders to have precedence on certain days.

Tuesdays, Wednesdays, and Thursdays, have been the days reserved for Government business, and Fridays for the business of members; but, as in practice, it was found impossible to make a House on Fridays, private business has been allowed to take precedence before the hour of half-past six o'clock on Wednesdays. A motion to adjourn to Saturday is out of order unless on notice. (V. H. Vol. XIV., p. 452.)

XXXV. All dropped motions and Orders of the Day shall, according as they shall relate to Government business or general business, be set down in the notice-paper after the Notices of Motion and Orders of the Day respectively, for the next day on which the House shall sit.

Dropped motions and orders.

XXXVI. No Notice of Motion shall be received after the Assembly shall have proceeded to the business of the day, as set down in the notice-paper.

Notices of motions not received after House has proceeded to the business of the day.

XXXVII. No member shall make any motion initiating a subject for discussion but in pursuance of notice openly given at a previous sitting of the Assembly and duly entered on the notice-paper.

Motions cannot be made except in pursuance of notice.

By Order XLIV. a Member may by leave move for an unopposed return without having given any previous notice, and in practice also other motions can be brought on by consent of the House, but if any one Member should object, they cannot be pressed. Order XLVI. *infra* directs that urgent motions concerning privileges of the House shall take precedence not only of other motions, but of Orders of the Day. Except under special circumstances, no motion can be made without notice.

Every notice to be in writing, and delivered at the table.

XXXVIII. Every Member in giving notice of a motion shall read it aloud and deliver at the table a copy of such notice fairly written, together with his name, and the day proposed for bringing on such a motion.

*A Member not to give two notices consecutively.*

26. *A Member may not give two notices of motions consecutively, unless no other Member has any notice to submit.*

Nor can a member give notice of a motion similar in nature to one already appearing on the notice-paper. (V. H., Vol. XVI., p. 1803.)

*Notice may be given for absent Members.*

27. *A Member may give notice for any other Member not then present, by putting the name of such Member on the notice of motion.*

Restriction upon given notices.

XXXIX. No notice may be given beyond the period which shall include the four sitting days next following on which Government business has not precedence, due allowance being made for any intervening adjournment of the House, and the period being, in that case, so far extended as to include four days' notice falling during the sitting of the House.

Notices printed.

XL. Every notice of motion shall be printed and circulated with the Votes.

Notices may be expunged.

XLI. Any notice containing unbecoming expressions may be expunged from the notice-paper, by order of the House.

Words offensive to the other House will be struck out of a notice of motion; the Speaker, upon the representation of the Clerk of the House, exercises the jurisdiction. (V. H., Vol. XV., p. 1667.)

Notices postponed.

XLII. A Member desiring to change the day for bringing on a motion, may give notice of such motion for any day subsequent to that first named, but not earlier, subject to the same rules as other notices of motion.

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27 May 1886

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XLIII. After a notice of motion has been given, the terms thereof may be altered by the Member, on delivering at the table an amended notice, at the least one day prior to the day for proceeding with such motion. The terms may be altered.

XLIV. A Member may, by leave, move for any unopposed return, without having given any previous notice. Motions for unopposed returns.

By leave of the House, an unopposed motion may be amended (V. H., Vol. XIII., p. 1145.) A motion ought not to appear on the paper as unopposed on which a discussion is likely to arise. (*Ib.* 1205.)

XLV. Motions shall have precedence on each day, according to the order in which the notices for the same were given. Precedence of motions.

Notice having been given by one Member of his intention to propose the repeal of an Act of Parliament, another Member can not anticipate the matter by raising discussion on the subject (207 H., p. 500.) Nor can discussion on a motion be anticipated by a motion for the adjournment of the House (*Ib.*) A debate cannot be anticipated on a bill or paper for a later hour (204 *Ib.*, 3rd ed., pp. 1532, 1090; 207 *Ib.*, pp. 500, 1640.) A general question cannot be anticipated on a discussion of a particular branch of it. (200 *Ib.*, p. 7.)

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XLVI. An urgent motion, directly concerning the privileges of the House, will take precedence of other motions, as well as Orders of the Day. Questions of privilege.

See Order XXXVII. *supra*, and note thereto. In order to entitle a question of privilege to precedence it must refer to some matter which has recently arisen, which directly concerns the privileges of the House, and calls for its present interposition (98 H., 3rd S., 931; *Ib.*, 1236; 108 C. J., 691, 703; 113 *Ib.*, 68; 119 *Ib.*, 184; 120 *Ib.*, 247; 121 *Ib.*, 55.) The propriety of issuing writs for seats in the Assembly when there is no doubt as to facts, is a motion of privilege, and entitled to precedence (V. H., Vol. XI., p. 150.) If a question of privilege arises out of something which has occurred

during a pending motion, it may be brought forward at once, otherwise it must be postponed until the pending motion be disposed of (V. H., Vol. XV., p. 2376.) In raising a question of privilege, it is necessary to conclude with a motión ; when the press is concerned, viz., "That the editor be called to this bar." (V. H., Vol. XIV., p. 739.)

*Votes of thanks.*

28. *Precedence is ordinarily given by courtesy to a motion for a vote of thanks to the House.*

Questions proposed.

XLVII. When a motion has been made and seconded, a question thereupon shall be proposed to the House by Mr. Speaker.

As to debate on questions (see Chap. VII., tit. Debate) and questions to Ministers. (Orders LXXIX. to LXXXVI.)

Motions not seconded.

XLVIII. Any motion not seconded may not be further debated, and no entry thereof shall be made in the Votes.

A motion on an Order of the Day follows the general rule and requires to be seconded. The above two orders refer only to motions in the House. Motions in Committee do not require to be seconded. (CXXXI.)

Motions withdrawn.

XLIX. A Member who has made a motion may withdraw the same by leave of the House, such leave being granted without any negative voice.

When a Member who has given notice of a motion desires to postpone it, the usual practice is to allow him to do so as a matter of course. If, however, the House objects to the postponement the motion must be proceeded with or struck out. (V. H., Vol. XVI., p. 1152.)

Questions superseded :— 1. By adjournment.

L. A question may be superseded: 1. By the adjournment of the House, either on the motion of a Member "That the House do now adjourn," or on notice being

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taken, and it appearing that a quorum of Members are not present; 2. By a motion, "That the Orders of the Day be now read;" 3. By the previous question, viz.: "That this question be now put, being proposed and negatived."

By reading the Orders of the Day.
3. By previous question.

The above rule prescribes the various modes by which a question under debate may be superseded.

No. 1. In the midst of a debate, but not whilst a Member is actually speaking, any Member may move "That this House do *now* adjourn,"—not by way of amendment to the original question, but as a distinct question which interrupts and supersedes that already under consideration; and there is no rule which prohibits a motion for the adjournment, even at the time a question is being asked of the Government (V. H., Vol. XIV., p. 2363.) If this second question be resolved in the affirmative, the original question is superseded, and the House must immediately adjourn, and all the business of that day is at an end. The motion must be simply "That the House do *now* adjourn," and not that it adjourn to any future time specified, nor can an *amendment* be moved to that effect on the question of adjournment (2 Hat., 113, 115.) If the motion be negatived some other motion must intervene before another motion of adjournment can be made (V. H., Vol. XIV., p. 1342.) "That the Speaker do leave the chair" is not such an intervening motion as the Speaker would feel justified in putting, as if carried business should be postponed until next day. (V. H., Vol. XIV., p. 1342.)

No. 2. The House may also be suddenly adjourned even whilst a Member is speaking, by notice being taken that twenty Members are not present. An adjournment caused in that manner has the effect of superseding a question in the same way as a formal question to adjourn, when put and carried. If the business under discussion be superseded by a motion for adjournment, it does not disappear from the notice-paper, but is put at the bottom of the list in the notice-paper, unless the House appoint another day for proceeding with it. But in the case of a count out by Order VII. *supra*, the business under discussion, and any business not disposed of at the time of such adjournment, shall take precedence of all business fixed for the next day on which the House shall sit. If a motion for an adjournment be negatived, it may not be proposed

again without some intermediate proceeding, and in order to avoid any infringement of this rule, it is a common practice for those who desire to avoid a decision upon the original question on that day to move alternately "That this House do now adjourn," and "That the debate be now adjourned" (see Proceedings, Nov. 23rd, 1819; 41 H., 136, Ecclesiastical Titles Bill; 106 C. J., 216 Night Poaching Bill; 117 *Ib.*, 388.) But a Member who has moved the adjournment of the House is not entitled to move the adjournment of the debate (148 H., 3rd S., 1450.) But he is at liberty to speak on the latter motion. The latter motion, if carried, merely defers the decision of the House, while the former, as mentioned above, supersedes the question.

That the Orders of the Day be now read

No. 3. On a day that motions have precedence, a motion under discussion may be superseded by a motion being carried "That the Orders of the Day be now read;" the House must then proceed with the Orders of the Day at once. If the House be engaged on an Order of the Day, the motion to supersede will then be by way of *amendment* to omit all the words after the word "that," in order to add the words "this House do now pass to the other Orders of the Day." (107 C. J., 205; *Ib.*, 225.)

No. 4. "That this question be now put," is what is called "moving the *previous* question," and those who wish to avoid the putting of the main question vote *against* the "*previous*" question, and if it be resolved in the negative, the Speaker is prevented from putting the main question, as the House has refused to allow it to be put. If it be resolved in the affirmative, no further debate is allowed, nor amendment, nor motion for adjournment before the question is put, as the House has resolved "that the question be *now* put," and it must accordingly be put at once to the vote (See next Order LI.) No amendment may be proposed to the previous question, which, in this respect, stands in the same position as a question of adjournment.

Previous question resolved in the affirmative.

LI. If the previous question be resolved in the affirmative, the original question shall be put forthwith, without any amendment or debate.

See Order L. and note.

# Orders of the Day, Notices, Motions, and Questions.

Orders of the Day, Notices, Motions, and Questions.

(May 9th ed: p. 289

May 309

As to how long after Speaker's or Chairman's decisn a divn can be called for.
10 Vict Hans 459 (Sess. 1864)

LII. A question for reading the Orders of the Day, and also "The previous question," may be superseded by the adjournment of the House.

Previous questions, &c., superseded by adjournment.

See Order L. and note.

LIII. The debate upon a question may be interrupted: 1. By a matter of privilege suddenly arising; 2. By words of heat between members; 3. By a question of order; 4. By a message from the Council; 5. By a motion for reading an Act of Parliament, an entry in the journal, or other public document, relevant to the question before the House.

Debates interrupted.

Order L. states the grounds for *superseding* a debate, while the above order states the grounds for *interrupting* the debate. The cause or ground of interruption being at an end, the debate proceeds as before.

LIV. The House may order a complicated question to be divided.

Complicated questions may be divided.

It depends on the will of the House, and not on an individual Member's will, to divide a complicated question, as the House may not consider the question complicated.

LV. So soon as the debate upon a question shall be concluded, Mr. Speaker shall put the question to the House, and if the same should not be heard, shall again state it to the House.

Questions put and again stated

LVI. A question being put, shall be resolved in the affirmative or negative, by the majority of voices "Aye" or "No."

Questions determined by majority of voices.

LVII. Mr. Speaker shall state whether, in his opinion, the "Ayes" or the "Noes have it," and unless his opinion be acquiesced in by the minority, the question shall be determined by a division.

Mr. Speaker states whether "Ayes" or "Noes" have it.

The same question not to be again proposed.

LVIII. No question or amendment shall be proposed which is the same in substance as any question, which, during the same Session, has been resolved in the affirmative or negative.

May ans X

This rule is necessary in order to avoid surprises and contradictory decisions. If the same question could be proposed again and again, a Session would have no end, or only one question could be determined, and it would be resolved first in the affirmative, and then in the negative, according to the accidents to which all voting is liable (201 H., 3rd S., p. 824; 203 *Ib.*, p. 563.) If, however, the rule were too strictly applied, the discretion of Parliament would be confined accordingly. By Order LX. a resolution or other vote may be rescinded, and according to the settled practice of the House of Commons an order may be discharged (1 C. J., 162; 89 *Ib.*, 59; 119 *Ib.*, 463.) To rescind a resolution or vote there must be express notice. But unless avowedly to rescind a resolution or other vote, or to discharge an order, a mere alteration of the words of a question without any substantial change in its object, will not be sufficient to evade the rule (95 C. J., 495; 115 *Ib.*, 24.) However, the character of a motion may be so far varied as to withdraw it from the operation of the rule (38 C. J., 814, 861; 100 *Ib.*, 59, 69; 81 *Ib.*, 42, 54, 185, 193, 214.) But the order cannot be invaded by renewing, in the form of an amendment, a motion which has already been determined (76 H., 3rd S., 1321.) In passing Bills, a greater freedom is allowed, and accordingly in every stage of a Bill every part of a Bill is open to amendment, either for insertion or omission, whether the same amendment has been in a former stage accepted or rejected (Hat., 135.) Thus the same clauses or amendments may be decided in one manner by the Committee, and in another by the House on report or third reading; the entire Bill being regarded as one question, which is not decided until it is passed. (See Titles Bill, *infra*, Chap. XV.; Orders CCXXXIX., CCLIV.)

A motion withdrawn may be made again.

LIX. A motion which has been by leave of the House withdrawn, may be made again during the same Session.

Resolution or vote rescinded.

LX. A resolution or other vote of the House may be read and rescinded.

An order discharged.

LXI. An order of the House may be read and discharged.

Orders of the Day, Notices, Motions, and Questions.

McKean's case 28 Sept '71
Order for discharge of an Order of D. rescinded 10 Decr 1885
May 9th W. 263. 419.

# Amendments.

# CHAPTER VI.

## AMENDMENTS.

see May cap IX

LXII. A question having been proposed may be amended by leaving out certain words in order to insert or add other words, or by inserting or adding words.

Different forms of amendment

The object of an amendment is generally to effect such an alteration in the question as will enable certain members to vote in favour of it, who, without such alteration, must either have voted against it, or have abstained from voting. The above order states two modes or shapes which amendments assume. There is a third mode, viz., leaving out certain words without proposing to add or insert other words (May P. C., 7th ed., p. 289 ; and for amendments generally, see *Ib.*, Chap. IX., p. 288 *et seq.*) Orders LXIV., LXV., and LXVI. direct the manner in which the Speaker is to put such proposed amendment from the Chair. A majority of members may be opposed to the amendment and also to the original question. On the 8th December, 1857, a majority of the House being adverse to a motion relating to joint stock banks, and also to a proposed amendment, the original question was reduced to the word "that," when, no other amendment being proposed, the Speaker called upon the Member whose notice stood next upon the paper to move his motion (113 C. J., 10.) On a similar occasion, upon an amendment being proposed, the House passed to the other Orders of the Day, having first negatived the original words of the question (77 *Ib.*, 356.) The Orders LXVII. and LXVIII. impose certain restrictions upon the making of amendments. Every proposed amendment must be intelligible and consistent, otherwise the Speaker or Chairman may refuse to put it. They must also be relevant to the question on which they are proposed as amendments. (206 H., 3rd Par., p. 1582.)

Amendments to be seconded.

LXIII. An amendment proposed, but not seconded, will not be entertained by the House, nor entered in the Votes.

But in Committee a proposed amendment does not require to be seconded. (CXXXI.)

Amendment to leave out words.

LXIV. When the proposed amendment is to leave out certain words, Mr. Speaker shall put a question, "That the words proposed to be left out stand part of the question," which shall be resolved by the House in the affirmative or negative, as the case may be.

See note to Order LXX. As to amendments on the second reading of a Bill, see Orders CCXXXI. and CCXXXII., and notes thereto respectively. And on motion for Mr. Speaker to leave the chair, see Orders CCXXXV. and CCLXXV., N. And on clauses of Bill in Committee, see Order CCXXXIX.

Amendment to leave out words and insert or add other words.

LXV. When the proposed amendment is to leave out certain words, in order to insert or add other words, Mr. Speaker shall put a question, "That the words proposed to be left out stand part of the question," which, if resolved in the affirmative, will dispose of the amendment; but if in the negative, and there is no motion before the House for amending the proposed amendment, another question shall be put, "That the words of the amendment be inserted or added instead thereof," which shall be resolved in the affirmative or negative, as the case may be.

So soon as the question is proposed for inserting or adding the words of the amendment, an amendment upon such proposed amendment may be moved thereon.

Amendment to insert or add words.

LXVI. When the proposed amendment is to insert or add certain words, Mr. Speaker shall put a question, "That such words be inserted or added," which shall be resolved in the affirmative or negative, as the case may be.

See preceding note.

Amendments.

Amendments.

but as to bills see
May 9th ed p 321.
549.

LXVII. No amendment shall be proposed in any part of a question after a later part has been amended, or has been proposed to be amended, unless the proposed amendment has been by leave of the House withdrawn.

When later part of a question has been amended or proposed to be amended.

LXVIII. No amendment shall be proposed to be made in any words which the House has resolved shall stand part of a question, or shall be inserted in, or added to, a question, except the addition of other words thereto.

No amendment to be made to words already agreed to.

LXIX. A proposed amendment may be by leave of the House withdrawn.

Proposed amendment withdrawn.

LXX. Amendments may be proposed to a proposed amendment, as if such proposed amendment were an original question.

Amendments to proposed amendments.

The original amendment by the above orders is as if it were intercepted, and in such cases the question put deals with the first amendment as if it were a distinct question, and with the second as if it were an ordinary amendment. The original question is for a time laid aside, and the amendment becomes as it were a substituted question itself. Unless this were done there would be three points under consideration at the same time, viz. :—the question, the proposed amendment, and the amendment of that amendment.

Where an amendment is proposed to leave out certain words of an original question, and an amendment is proposed to such proposed amendment, by leaving thereout some only of the words proposed to be omitted, it is generally arranged that only the first part of the original amendment shall be formally proposed in the first instance, so as not to preclude the consideration of the second amendment.

Amendments, with regard to being seconded, follow the same rule as original motions, viz., in the House they require to be seconded, in Committee not.

LXXI. When amendments have been made, the main question as amended shall be put.

Questions as amended put.

When amendments proposed but not made.

LXXII. When amendments have been proposed, but not made, the question is put as originally proposed.

As to amendments in Bills see Chap. XV. tit. Bills, by Legislative Assembly, CCXXXI. to CCLV. inclusive: by Legislative Council, CCLXI., and by Governor, CCLXII., and Joint Standing Order XVI., p. 134. As to the correcting of "clerical" errors and "literal typographical" errors, see "Additional Joint Standing" Orders XXI. and XXII. pp. 136-7.

*Amendments.*

Debate.

# CHAPTER VII.

## DEBATE.

LXXIII. Every Member desiring to speak shall rise in his place uncovered, and address himself to Mr. Speaker. Members to address Mr. Speaker.

See rule 22, and note thereto.

29. *By the special indulgence of the House, a Member unable conveniently to stand, by reason of sickness or infirmity, will be permitted to speak sitting and uncovered.* *Indulgence to Members unable to stand.*

LXXIV. Members can only speak to a point of order while the House is dividing, by permission of Mr. Speaker. Speaking to order during a division.

On such occasions, the doors being closed, it is the practice for Members to speak sitting, and covered, but this practice is confined to questions of order arising out of division, but does not apply to distinct motions proposed for the adoption of the House. Thus, a motion for disallowing votes on the ground of personal interest, though the doors were closed, was held to be such a motion, and the Speaker desired the Member to rise in his place. (10th July, 1844, Eng.)

LXXV. No member may speak to any question after the same has been put by Mr. Speaker, and the voices have been given in the affirmative and negative thereon. No Member to speak after question has been put.

The debate, however, has been reopened after the question has been declared by the Speaker to have been resolved in the affirmative, viz.: when a Member has risen to speak before the question had been put, but had been unobserved by the Speaker. (2 Hat., 102, N.)

Mr. Speaker calls upon Members to speak.

LXXVI. When two or more members rise to speak, Mr. Speaker calls upon the Member who first rose in his place.

Sometimes two or more Members rise at the same time, and then, though one has been called upon by the Speaker, it is not unusual for the House to interfere and call upon the member who, in their opinion, is entitled to be heard, or whom they prefer to hear; and when the general voice of the House appears to give one the preference, the others usually give way, but in case the others do not give way, then the next Order LXXVII. can be brought into operation.

Motion that a Member "be now heard."

LXXVII. A motion may be made that any Member who has risen "be now heard," or "do now speak."

The mode of proceeding under this order is very rarely adopted; Members generally give way to the decision of the Speaker, or the wish of the House previously expressed. Instances, have, however, occurred (Lord North and the Earl of Surrey, 20th March, 1782; 1 Memoir of Fox, 295; Mr. Pitt and Mr. Fox, 20th February, 1784; 39 C. J., 943; Sir Robert Peel and Sir F. Burdett, 86 C. J., 517; Mr. Locke and Mr. Forbes Mackenzie, 9th July, 1850; 105 C. J., 517; 112 H., 3rd S., 1190; the Solicitor-General and Mr. Nichol, 18th May, 1863, and various other instances of minor importance.) On the occasion of an adjourned debate, precedence is usually given to the Member who has moved the adjournment of the debate; he must, however, rise in his proper place to take advantage of his privilege (126 H., 3rd S., 1246.) A new Member, also, who has not previously spoken, is generally called upon by courtesy in preference to other Members rising at the same time, but this privilege will not be conceded unless claimed within the Parliament to which the Member was first returned (12th March, 1859, English House of Commons.) A motion that a Member be not heard, was refused by the Speaker to be put as being unprecedented. (V. II., Vol. VI., pp. 404-5.) but allowed in H. Commons - May 9th 1836

Members speak to the question.

LXXVIII. A Member may speak to any question before the House, or upon any amendment proposed thereto, or

Debate.

re Speaker's list - Speaker's ruling 6 Sept. '88
V. P. D. p.

# Debate.

On 5 July '87, Deakin craved permission to make a statement re Imperial Conference in London; Bent & Ar. Clark objected p 247
Speaker ruled he cd only speak by unanimous consent ∴
on 6 July Deakin made his speech on a Mo: by Giles for laying the papers on table
p 260. 262

May 9th ed p 354

May 9th 2d 348

upon a question or amendment to be proposed by himself, or upon a question of order arising out of the debate, but not otherwise.

The above order gives full latitude to Members to express their opinions, but whenever a Member wanders from the subject under debate he is liable to be interrupted by cries of "Question." And if the topics he has introduced be clearly irrelevant the Speaker accquaints him that he must speak to the question. Upon questions of adjournment considerable laxity has prevailed, but these are regarded as exceptions to the rule. Members, upon questions of adjournment, are at liberty to speak upon every subject besides that of the colourable question of adjournment (H., 5th February, and 22nd February, 1849; *Ib.*, 21st February, 1860; 156 H., 1473, 12th February, 1861; 161 *Ib.*, 344.) As to amendments on motion that Speaker leave the Chair (see note to Order CCLXXVIII.) But under cover of adjournment a Member cannot discuss the subject of an order of the day, as the House has appointed another time for its consideration, nor of any motion of which notice has been given (V. H., Vol. XIV., p. 258; H. 140, 3rd S., 2037; 146 *Ib.*, 1699; 176 *Ib.*, 1797; 185 *Ib.*, 886; 187 *Ib.*, 775; 189 *Ib.*, 91.) A reply is allowed on a substantive motion for an adjournment of the House, but not when moved to supersede the question. A debate is never allowed on putting questions to particular Ministers or other Members of the House, nor in explaining personal matters. (See Orders LXXXI. and LXXXII.)

But now see S.O. of 10 July '82 - Q. - 11 ent.

LXXIX. At the time of giving notices of motion, questions may be put to Ministers of the Crown relative to public affairs, and to other Members relating to any Bill, motion or other public matter connected with the business of the House, in which such Members may be concerned.

Questions to Ministers or other Members.

See Chapter V., p. 17, Rule 24, note. Under the above order questions are frequently put to Ministers of the Crown concerning any measure pending in Parliament, or other public event, and to particular Members who have charge of a Bill, or who have given notices of motion, or are otherwise concerned in some business before the House. Notice is usually given of such questions unless

they relate to some matter of urgency, or to the course of public business. A question may, however, be asked without notice, but need not be answered until notice is given (V. H., Vol. XIV., p. 1038.) Such questions should be limited as far as possible to matters immediately connected with the business of Parliament, or matters of a public nature, and within the cognizance and jurisdiction of some one of the Ministers of the Crown (102 H., 3rd S., 1100; 135 *Ib.*, 1345; 166 *Ib.*, 2027; 174 *Ib.*, 1914.) In the same manner an answer should be confined to the points contained in the question with such explanation only as will render the question intelligible; but a certain latitude is sometimes permitted by courtesy to Ministers of the Crown (161 H., 3rd S., 497; 174 *Ib.*, 1423, &c.) The question being answered, debate cannot go on without a motion (H. 203, 3rd ed., p. 348.) If a Member, however, be desirous, not merely to ask a question, but also to detail circumstances leading up to the question, he must frame his notice to meet that object, *e.g.*, "To draw the attention of the Minister of ——— to, &c., and to ask, &c." Under this form the Member can make a concise statement of the undisputed facts connected with the question he is about to ask, but he is not allowed to argue it because no debate is allowed (V. H., N. S., p. 166; 16 *Ib.*, p. 1386.) Nor can he give personal opinions or state irrelevant matter. (V. H.. Vol. XV., p. 2126; H., 208, p. 781—3, 2128.)

Upon any business affecting Parliament Members not Ministers, as well as Ministers, are liable to be questioned, but such questions ought to be confined to business actually before the House, and not refer to what has taken place outside (V. H., Vol. XIV., p. 207.) And should not be prefaced by a speech. (V. H., Vol. XVI., p. 1542.)

The next two Orders, LXXX. and LXXXI., specifically prescribe the limits upon such occasions.

Such question not to involve argument.

LXXX. In putting any such question, no argument or opinion shall be offered, nor any facts stated, except so far as may be necessary to explain such questions.

See preceding order and note. Questions to Ministers should be put in as concise language as possible, unaccompanied by statements to which Honorable Members who may hold different views have

# Debate.

As to revising questions - see evidence of Sir T. E. May before Comm: on business of the House printed 28 March 1871

1 Or to taxation proposals of Ministers
1 Todd 451

# Debate.

A member has no right to say that an hon: member has done something wh: he has already denied having done

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no opportunity of replying (V. H., Vol. XII., p. 19.) If a member is desirous of making a speech and entering into a full discussion on the question proposed, a notice of motion on or a motion to adjourn the debate is the proper course (V. H., Vol. XVI., p. 1265; *Ib.*, p. 1542—4.) Nor has he any right to make observations on an answer to a question asked. (200 H., 3rd S., p. 918.)

LXXXI. In answering any such question, a Member shall not debate the matter to which the same refers.

In answering a question the matter not to be debated.

See two preceding orders and notes thereto. As to a Member being at liberty to repeat notice of same question, when answer is deemed unsatisfactory (see V. H., Vol. XIV., pp. 931-2,) and right under such circumstances to move the adjournment of the House. (*Ib.*, 16, pp. 670—2; *Ib.*, 908—10, 912, 914.)

LXXXII. By the indulgence of the House a Member may explain matters of a personal nature, although there be no question before the House; but such matters may not be debated.

Personal explanation.

In regard to personal explanations, either as to conduct or speech, the House is usually indulgent. General arguments, however, or observations beyond the fair bounds of explanation, or too distinct a reference to previous debates, ought not to be used by the Member who, under the circumstances, is permitted to speak (17 H., 3rd S., 1913; 10th and 12th February, 1857; 16th April, 1858; 4th June, 1863; 19th April, 1849; 16th June, 1853; 17th and 18th March, 1859; 23rd February, 1863; 17th March, 1864; 174 H., 3rd S., 171; 174 *Ib.*, 1203; 178 *Ib.*, 372; 205 *Ib.*, p. 178.) In one case personal explanations were permitted to be made by one Member on behalf of another who was abroad (Mr. Bright for Mr. Cobden, 16th March, 1860.) A personal explanation should be confined to a reply to any charge or remarks which have been made concerning the Member who desires to offer the explanation. In making the explanation he is not justified in attacking another Honorable Member (V. H., Vol. XIV., p. 206.) Having moved the adjournment of the *debate*, the same Member cannot move the adjournment of the House, or *vice versâ*, being held to have spoken.

No Member to speak twice to a question.

LXXXIII. No Member may speak twice to a question before the House, except in explanation or reply, or in Committee of the whole House.

Or by leave of the House. (201 H., 3rd S., 2, 5, 6.)

See preceding and next two following orders, and Order CXXXIV. A second speech has been allowed by leave of the House, in explanation, to a Minister who had spoken early in the debate, and which had rendered a Ministerial explanation necessary (119 H., 3rd S., 1853;) or to answer a question addressed to him after he had spoken (174 H., 3rd S., 88, 153;) and also to Members who had merely spoken on an incidental issue, and not upon the main question (173 H., 3rd S., 1549.) When a Member speaks to the main question on a motion for adjournment, he is precluded from speaking again (V. H., Vol. X., p. 12) otherwise on an amendment (*Ib.*, 33.) A reply will not be allowed on a motion for the adjournment of the debate unless it be a substantive motion and not one merely to supersede the question.

Except to explain his words.

LXXXIV. A Member who who has spoken to a question may again be heard, to explain himself in regard to some material part of his speech, but shall not introduce any new matter.

The proper time for explanation is at the conclusion of the speech which calls for it, but it is a common practice for Members desiring to explain to rise immediately the statement is made to which his explanation is directed, when, if the Member in possession of the Chair gives way and resumes his seat, the explanation is allowed, but if the Member who is speaking declines to give way, the explanation cannot be offered until the Member speaking has resumed his seat (41 H., 157; 157 H., 3rd S., 1407; 163 *Ib.*, 83; 179 *Ib.*, 572; 183 *Ib.*, 800; 208 *Ib.*, pp. 343, 1180.) It is only on a point of order that one Member can interrupt another. (V. H., Vol. XIV., p. 173.)

Or to reply in certain cases.

LXXXV. A reply shall be allowed to a Member who has made a substantive motion to the House, but not to any Member who has moved an Order of the Day, an amendment, or an instruction to a Committee.

Debate.

May 9th ed. 359, 394

*(Approved, 10th July 1882.)*

A Member moving, or seconding, the adjournment of the debate on any question shall, whether the adjournment be carried or not, be entitled to speak again on the main question, provided he has not discussed that question in moving, or seconding the motion for adjournment.

Subsec May 361-2 & a bills-353

May 9th ed p 360-1

Debate.

Moving the "previous question" is in the nature of an amendment, and no reply is allowed. The above order is the same with the English practice, and in cases coming within the order or practice it is not uncommon for a Member to move an Order of the Day or second a motion without remark, and to reserve his speech for a later period in the debate; and in that case, the option of speaking at a subsequent period of the debate has been conceded whenever the moving or seconding is confined to some formal act. But in moving an amendment a Member cannot avail himself of this privilege, as he cannot avoid addressing the House, however shortly; and a Member who speaks on seconding an amendment, is equally disabled from speaking to the original question after the amendment has been withdrawn or otherwise disposed of (12th July, 1867, English Commons.) A Member who has already spoken, may rise again and speak upon a point of order or privilege, but he may not rise to move an amendment, or the adjournment of the House, or of the debate, or any similar question, though he may speak to these new questions when proposed by other Members. Moving the adjournment of the debate exhausts his powers of speaking. (202 H., 3rd S., p. 298.)

Speaking "to order."

LXXXVI. Any member may rise to speak "to order," or upon a matter of privilege suddenly arising.

When a Member speaks to order he should simply direct attention to the point complained of, and submit it to the decision of the Speaker. But instead of rising to speak to order, the violation of any rule of debate may be noticed by merely a cry of "Order." This puts the Member who is irregular upon his guard, and arouses the attention of the House and the Speaker, and prevents a speech to order, a reply, and, perhaps, angry discussion. On priority of order, a Member is at liberty to interrupt the Member who is addressing the House, but not for the purpose of personal explanation. (V. H., Vol. XIV., p. 173.)

Debates of same Session not to be alluded to.

LXXXVII. No Member shall allude to any debate of the same Session, upon a question or Bill not being then under discussion, except by the indulgence of the House for personal explanations.

This order is for the purpose of imposing a restraint upon Members to prevent them reviving a debate already concluded, for otherwise a debate might be interminable (H., 28th February, 1845.) The order, however, is not always strictly enforced; peculiar circumstances, in addition to the class of exceptions provided by the order, may seem to justify a Member in alluding to a past debate, or to entitle him to indulgence. In the Princess Augusta's of Cambridge annuity case, the Speaker observed (15th June, 1843,) "According to the rule of the House, it is no doubt irregular for any Honorable Member to allude to anything that has taken place in a former debate, but there is a certain degree of latitude allowed to Honorable Members when such allusions are relevant to the question immediately under discussion. It has not then been the practice to interfere, and the strict rule of the House is only adhered to when the subjects of the debate are of a totally different character" (Burke's Practice Cases, 2nd ed., pp. 126-7; 3 Hansard, 69, 1573; and see other cases *Ib.*, pp. 127—31.) But see ruling of the present Speaker of the House of Commons re-establishing this and the next two General Orders (203 H., 3rd S., p. 1613; 207 *Ib.*, p. 905; 208 *Ib.*, p. 1604.) On a motion of want of confidence a greater latitude is allowed in debate. (V. H., Vol X., p. 384.)

**Reports of speeches of same Session not to be read.**

LXXXVIII. No Member shall read from a printed newspaper or book the report of any speech made in Parliament during the same Session, unless such report refer to the debate then proceeding.

The above order is confined to the reading of reports of speeches made during the "same" Session, and does not apply to speeches delivered in former Sessions. Members are at liberty to quote from these. (See next order and note thereto.)

**Extracts referring to debates not to be read.**

LXXXIX. No Member shall read extracts from newspapers or other documents referring to debates in the House during the same Session.

A like observation as to the orders preceding applies to the above order. The practice in the House of Commons in England has

# Debate.

re Bowman attempting to read an affidavit as to statements made by McLeven
30 Sept. 85 pp. 1292 & 1313

# Debate.

Question as to propriety of a motion of adj.
by Labouchere "that House of Lords is useless
dangerous & ought to be abolished"
267 Hans. 388

been to disallow the reading of any extracts from any newspaper referring to debates of the same Session or not, but on the 14th February, 1856, the Speaker stated that he had on a former occasion attempted to enforce the practice but had been overruled by the House (140 H., 3rd S., 1063—5;) and on the 9th March, 1857, in Committee of Supply, the Chairman, adverting to the preceding cases, decided that the practice could no longer be enforced (144 *Ib.*, 106.) But see rulings of the present Speaker of the House of Commons re-establishing this, and the two preceding orders (203 H., 3rd S., p. 1613; 207 *Ib.*, p. 905; 208 *Ib.*, p. 1604.)

XC. No Member shall reflect upon any vote of the House except for the purpose of moving that such vote be rescinded. Reflections upon votes of the House.

The enforcement of this order is a matter of some difficulty, as principles are always open to argument, although they may have been affirmed or denied by the House. It should, however, be conformed to as much as possible, as its violation only tends to revive discussion upon questions already decided, and it is irregular in principle, inasmuch as the Member is himself included in and bound by a vote agreed to by a majority (2 Hatsell, 234, N.; 185 H., 3rd S., 1122; 186 *Ib.*, 885.) To say of a resolution that it is "illegal" means to say that it has not the force of law and therefore in order. But otherwise if the word "improper" be used (V. H., Vol. XII., p. 83) As to speaking of a statute. (See N., Order XCII.)

XCI. No Member shall allude to any debate in the other House of Parliament, or to any measures pending therein. Allusion to debates in the other House.

This order is mainly founded upon the understanding that the debates of the other House are not known, and the House can take no notice of them (4 L. J., 582.) The order, however, is constantly evaded by a transparent ambiguity of speech. Thus, instead of using the words "other House," the Member desirous of evading the order speaks of what has taken place or been said in an "other *place*." It would, however, in all cases, be better not to make any such allusions, so as to prevent fruitless arguments

between Members of two distinct bodies, who are unable to reply to each other, and to guard against recrimination and offensive language in the absence of the party assailed. The order, however, applies to debates only, and not to Reports of Committees of the other House (Hansard's Debates, 9th June, 1848.) Nor does the order apply to the votes or proceedings of either House, as they are recorded and printed by authority (159 H., 3rd S., 1856.) Nor to *members* of that Chamber. It is, however, desirable that no personal reference should be made in debate. (V. H., Vol. XIV., pp. 233, 289.)

Offensive words against either House.

XCII. No Member shall use offensive words against either House of Parliament; nor against any statute, unless for the purpose of moving for its repeal.

Offensive expressions against either House are not only a contempt of that high Court, but are calculated to degrade the Legislature in the estimation of the people. Words of this character are never spoken but in anger; but should the Member using the words not retract and apologise, should he fail to satisfy the House in this manner, he may be punished by reprimand, or even commitment (9 C. J., 147, 760; 10 *Ib.*, 512; 11 *Ib.*, 580.) More license is, however, allowed in speaking of a statute; the frequent necessity of repealing statutes justifies their condemnation in debate, and the terms in which they are condemned can only be regarded as an argument for their repeal. (See Order XC. and note thereto.)

No Member may refer to any other Member by name.

XCIII. No Member shall refer to any other Member by name, except for the purpose of distinguishing him from other Members returned for the same electoral district.

In order to guard against all appearance of personality in debate, the above order was made. In the Legislative Assembly each Member is distinguished by the office, if any, he holds, as "The Honorable the Chief Secretary, Treasurer, Minister of Mines, Attorney-General, &c.," or as "The Honorable Member for ——, &c." An exception to the rule is allowed when two or more Members are returned for the one place. In such a case the Member addressed is styled "The Honorable Member for ———, Mr. ———."

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XCIV. No Member shall use offensive or unbecoming words in reference to any Member of the House. Offensive words against a Member.

The imputation of bad or improper motives, or motives different from those acknowledged; misrepresenting the language of another, or accusing him in his turn of misrepresentation, or insulting language of any kind;—all these are unparliamentary, and call for prompt interference (see Examples of Unparliamentary Expressions, 3 V. H., N. S., pp. 51, 63, 394, 414, 570, 400, 577, 770; 6 *Ib.*, 157; 10 *Ib.*, 378, 400, 790, 1029; *Ib.*, 106; 14 *Ib.*, 450, 605, 999; 173 H., 3rd S., 1406; 137 *Ib.*, 1895; 176 *Ib.*, 1003; 186 *Ib.*, 173, 422, 441, 884; 187 *Ib.*, 953; 188 *Ib.*, 1895; 202 *Ib.*, 298-9; 201 *Ib.*, 1455; 12 L. J., 31; Mirror of Parliament, 1833, p. 2855.) In reply to charges considerable latitude must necessarily be allowed, at the same time anything relating to private business of Members should be left out of discussion (V. H., Vol. XIV., p. 108;) but if any Honorable Member brings his own private affairs before the House, he cannot blame other Honorable Members if they enlarge on them; they cannot be prohibited from so doing (*Ib.*, pp. 173-4, 216.) According to an old Rule of the House of Lords, "all personal, sharp, or taxing speeches" are to be forborne. This, however, must be taken to refer to the person, and not the measure under discussion. In the Sessions 1870-1, a Member of the Legislative Assembly characterised a certain measure by a term offensive to another Member, and was interrupted by a call to order by the Member who had taken offence. But the Speaker ruled that "by the practice of Parliament terms of the kind might be applied to *measures* so long as they did not apply to *persons*; and although it struck him that the Honorable Member had used expressions which he should have refrained from employing, he (the Speaker) did not think that it could be held that he had gone beyond the bounds of parliamentary language." Conformable with this decision is one by the Speaker of the English House of Commons upon the discussion of the Ecclesiastical Titles Bill. A Member, in the course of his speech, used language strongly reflecting upon a certain class of religious institutions, and offensive to the feelings generally of certain other Members of the House. He was interrupted by another Member, who claimed the right to have the words taken down. The Speaker, however, ruled that, "by the rules of debate a Member is at liberty to use such expressions as he

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may think necessary, provided they do not convey any *personal* reflection upon another Member, and are not disrespectful to the House" (Burke's Parliamentary Practice Cases, 2nd ed., p. 140; 115 Hansard, 3rd, 266, 275-6; V. H., Vol. XVI., p. 790-1.) On a subsequent occasion, and in reference to the last case, and reply to a question of another Member, the Speaker laid down this rule:—"Honorable Members are aware that the rule of the House with regard to freedom of debate is part of the unwritten law of the House, and that it is a privilege which it is most important to preserve inviolate; at the same time it must be acknowledged that there are restraints which are not imposed by the actual rules of the House. Those restraints are founded on the good feeling and courtesy of Honorable Members, which ought to prevent, as much as possible, any Member from wounding the feelings of other Members of the House. But at the same time, I beg to state that in all cases of this description it is quite competent for the House to pronounce an opinion at the time upon the words spoken. For if any Honorable Members are not satisfied with the decision of the Chair, it is not competent for one Honorable Member, but for the House, to call upon the Speaker to desire the words to be taken down, and then the sense of the House to be taken upon them. I entertain, however, the greatest confidence that Honorable Members, feeling the importance, as well for the satisfactory discussion of all important subjects as for the preservation of the dignity of the House, that those restraints to which I have alluded should be observed, and knowing that they cannot be enforced by any of the orders of the House, will see the greater necessity for not disregarding them." (Burke's Parliamentary Practice Cases, 2nd ed., pp. 140-2; 115 H., 3rd, 636.)

Words taken down by direction of Mr. Speaker

XCV. When any Member shall object to words used in debate, and shall desire them to be taken down, Mr. Speaker, if it be the pleasure of the House, will direct them to be taken down by the Clerk accordingly.

Notice should immediately be taken of the objectionable words. For if any Member have spoken to the question of order before the House expressed a wish to have the words taken down, it has been always held to be too late, the words cannot be taken down (2 Hat., pp. 269—72, N.; 66 C. J., 391; 68 *Ib.*, 322; 93 *Ib.*, 312-13; 9

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H., 326; 115 H., 3rd S., 266—275.) Conformable to this practice Order XCVII. has been framed. And the same principle applies if the Member is permitted to continue his speech for a time without interruption (48 H., 3rd S., 321.) As to words in a Committee of the whole House, see next order.

Words taken down in Committee.

XCVI. In a Committee of the whole House the Chairman, if it be the pleasure of the Committee, will direct words objected to, to be taken down, in order that the same may be reported to the House.

See Orders XCIV., XCV., XCVII., XCVIII., CIII., CV., CVI., and notes. When the offensive words have been taken down, they are read over to the Member by the Chairman, and if admitted as being correct, are then, upon motion, reported to the Speaker by the Chairman. (V. H., Vol. X., p. 790.)

Words to be objected to when used.

XCVII. Every such objection shall be taken at the time when such words are used, and not after any other Member has spoken.

See preceding order and other orders referred to.

Members not explaining or retracting.

XCVIII. Any Member having used objectionable words, and not explaining or retracting the same, or offering apologies for the use thereof, to the satisfaction of the House, will be censured, or otherwise dealt with as the House may think fit; and any Member called to order shall sit down unless permitted to explain.

Insulting words are taken down by the Clerk, then read over by the Speaker to the offending Member, and, being admitted, if he refuse to apologise a motion is then made that he has incurred the censure of the house, and that he accordingly be censured by the Speaker (V. H., pp. 13, 14.) The preliminary proceedings towards bringing the Member under the censure of the House are regulated by Order CI.

House will prevent quarrels.

XCIX. The House will interfere to prevent the prosecution of any quarrels between Members arising out of debates or proceedings of the House, or any Committee thereof.

No noise or interruption will be allowed during a debate.

C. No Member shall presume to make any noise or disturbance whilst any Member is orderly debating, or whilst any Bill, Order, or other matter is being read or opened; and in case of such noise or disturbance, Mr. Speaker shall call upon the Member making such disturbance by name, and every such person will incur the displeasure and censure of the House.

In the Legislative Assembly all Members should be silent, or converse only in an undertone, so as not to prevent the Member who is addressing the Chair from being heard (V. H., Vol. X., p. 1614.) When the conversation is so loud as to make it difficult to hear the debate, the Speaker exerts his authority to restore silence by repeated cries of "Order." If a Member should make himself conspicuous by disorderly conduct, then the Speaker will be justified in acting on the above order, and naming the disorderly Member (7 V. H., pp. 253—6; and see cases of Mr. Whitmore, 15th December, 1792, 30 Parliamentary History, 113; Mr. Fulton, 27th February, 1810, 65 C. J., 277; and Mr. Fergus O'Connor, 8th and 9th June, 1852, 107 C. J., 277.) Ironical cheers, or ironical cries of "Hear, hear," cries of "Question," or other similar causes of interruption, if made use of only occasionally, and so as not to interrupt the debate, will be tolerated, but if carried to excess, so as effectually to embarrass or interrupt the Member who is addressing the House, the Speaker will act on the powers conferred by the above order. Demonstrations in the gallery of any kind will not be permitted: persons offending will at once be removed. (V. H., Vol. XIV., p. 118.)

When Mr. Speaker calls upon any Member by name.

CI. When, in consequence of highly disorderly conduct, Mr. Speaker shall call upon any Member by name, such Member shall withdraw as soon as he has been heard in

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explanation; and after such Member's withdrawal the Assembly shall at once take the case into consideration.

+ see S. 105

The practice is to permit him to hear the charge against him, and after being heard in his place, to withdraw from the House; the precise time at which he should withdraw is determined by the nature of the charge (CV.) When it is founded upon reports, petitions, or other documents, or words spoken and taken down, which sufficiently explain the charge, it is usual to have them read, and for the Member to withdraw before any question is proposed (21 L. J., 450; 65 C. J., 450; 65 C. J., 224; 88 *Ib.*, 470; 91 *Ib.*, 42; 101 *Ib.*, 582; 113 *Ib.*, 68; 116 *Ib.*, 377, 381.) But if the charge be contained in the question itself, the Member is heard in his place, and withdraws after the question has been proposed (63 *Ib.*, 149; 91 *Ib.*, 319.) If the Member should neglect or refuse to withdraw at the proper time, the House would order him to withdraw (4 L. J., 476; 5 *Ib.*, 77; and 18 C. J., 49.) When a Member's conduct has not been directly impugned by the form of the question, he has continued in the House and voted (174 H., 340.) In the case of a petition having been presented against certain Members (17th May, 1849,) the Members were permitted to explain and defend their conduct, and did not afterwards withdraw, as a motion cannot be made nor a debate commenced, on the presentation of a petition, unless it complains of some present personal grievance, and one calling for immediate redress (see Order CCXVI. and note thereto;) or relates to a matter of privilege. As soon as the Members were heard, the petitions were ordered to lie on the table without further debate. A denial by Members of a statement is not to be disputed (202 H., 3rd S., p. 918.) A declaration of a party made out of the House will not be read in contradiction to a Member's statement in the House (V. H., Vol. XI., p. 617.) A statement made by a Member is considered to be made on the honour of a Member, and cannot be questioned either in the House or out of it (59 H., 1006.) When the House has resolved that a Member is in contempt, he must continue to absent himself until the House has determined on his punishment (85 H., 3rd S., 1198; *Ib.*, 1291, Order CV.) In case the House resolves to commit him a motion is made that he be committed to the custody of the Serjeant-at-Arms. The motion having been carried, a warrant is made out and signed by the Speaker, and given to the Serjeant for his arrest. (V. H., Vol. X., p. 75.)

May 9th ed. p 392

Rules of debate in Committee.

CII. The several rules for maintaining order in debate shall be observed in every Committee of the whole House.

See preceding Orders LXXIII. to CI., inclusive.

Order maintained by Mr. Speaker and Chairman of Committee.

CIII. Order shall be maintained in the House by Mr. Speaker, and in a Committee of the whole House by the Chairman of such Committee; but disorder in a Committee can only be censured by the House on receiving a report.

Improper interruptions of the debates or proceedings in a Committee of the whole House, are regarded in the same light as similar disorders in the whole House. The Chairman is, however, vested with more limited powers than the Speaker, as the former cannot "name" a Member; he must only wait for a motion to be made by some other Member to report the offending Member to the House, and report accordingly. The Speaker and the House then deal with the Member as when the offence is committed in the House itself. (See Order XCVI.)

When Mr. Speaker rises House to be silent.

CIV. Whenever Mr. Speaker rises during a debate, any Member then speaking, or offering to speak, shall sit down, and the House shall be silent, so that Mr. Speaker may be heard without interruption.

The rising of the Speaker is the signal for immediate silence, and for the cessation for all disputes, and Members who do not maintain silence, or who attempt to address the Speaker are called to order by the majority of the House, with cries of "Order," and "Chair." And properly so, as in a large assembly, consisting of persons of opposite politics and conflicting opinions, it is necessary that there should be some one invested with authority to repress disorder, and to give effect promptly and decisively to the orders and rules of the House. (See Order III. and note thereto.)

Member to withdraw while his conduct is under debate.

CV. Every Member against whom any charge has been made, having been heard in his place, shall withdraw while such charge shall be under debate.

Debate.

Debate

CVI. Any Member or other person who shall wilfully disobey any lawful order of the Assembly, and any Member or other person who shall wilfully or vexatiously interrupt the orderly conduct of the business of the Assembly, shall be guilty of contempt. When Members guilty of contempt.

CVII. The following scale of fees shall be payable to the Serjeant-at-Arms on the arrest or commitment of any person by order of the Assembly, and no person shall, without the express direction of the Assembly, be discharged out of custody until such fees be paid, or the Session of Parliament concluded:— Fees payable on arrest or commitment.

| | |
|---|---|
| For arrest .. .. .. .. | £50 |
| For commitment .. .. .. | £50 |
| For each day's detention, including sustenance .. .. .. | £5 |

In some instances, under peculiar circumstances, those fees have been remitted, or the Member ordered to be discharged without payment. The Sessions of Parliament having been concluded, the power of the Parliament over the Member ceases, and he is discharged, as of course without the payment of fees.

As to speaking during a div. See S. O. 74

# CHAPTER VIII.

## DIVISIONS.

No Member to vote unless present when the question put.

CVIII. No Member shall be entitled to vote in any division, unless he be present in the House when the question is put with the doors locked, and the vote of any Member not so present will be disallowed.

The invariable practice of both the Speaker and the Chairman of Committees of the Legislative Assembly is, after the doors have been locked, so that no Member can go in or out, to put the question again. The circumstance, therefore, of a Member voting without being present when the question is put cannot occur in the Legislative Assembly.

Every Member then present must vote.

CIX. Every Member present in the House when the question is put, will be required to vote.

A Member being found in the House who had not voted, the question was stated to him, and he gave his vote accordingly (103 C. J., 106.) In 1856, three Members who were in the House when the question was put, but had not voted, were required to declare themselves, and the Speaker desired their names to be added to the list they had declared for (111 C. J., 313.) Other instances of a like kind have occurred. (117 C. J., 151; 121 *Ib.*, 140.)

Previous to division strangers to withdraw if ordered.

CX. Previously to any division, strangers shall, if ordered, withdraw from the body of the House.

The above order has been very seldom acted upon in the Legislative Assembly. It is the inherent right of every Member to have the galleries cleared of strangers at any time during the sitting of the House or Committee.

# Divisions.

and see May chapter XII

Bent sitting below bar in Housekpr's seat. ord^d to vote by Chairman on motion taken 20 Nov '88

Vide 29 V.P.D. p 1492 23 Oct '78

# Divisions.

Noes three - 8 V.H.: p. 240

Members in wrong lobby
May 4th - p. 409.

In Comm.: a member crossed from noes to ayes after telling commenced - 1 Sept.: 1885. see Debate p. 919
like case 22 Dec.r '69 - 9 V.P.D. 2671 ✓
& see 25 P.D. 1568. ✓

29 P.D. p. 1894
Bent crossed over when 3 tellers appt.? 27 Oct '87 p. 1850

CXI. So soon as a division shall have been demanded, the clerk shall ring a bell and turn a two-minute sand-glass, kept on the table for that purpose, and the doors shall not be closed until after the lapse of two minutes, as indicated by such sand-glass.

Clerk to ring bell and turn sand-glass.

The period of "two" minutes fixed by the above order was found too limited to allow of Members to arrive from the various parts of the House, and the time has since been enlarged to "three" minutes.

31 Oct. 61 8 V. H. 240

CXII. The doors shall be closed and locked as soon after the lapse of ~~three~~ two minutes as Mr. Speaker, or the Chairman of a Committee of the whole House, shall think proper to direct, and no Member shall enter or leave the House until after the division.

Doors closed after the lapse of three minutes.

CXIII. When the doors have been locked, and all the Members in their places, Mr. Speaker, or the Chairman of a Committee, shall put the question, and after the voices have been given, shall declare whether, in his opinion, the "Ayes" or the "Noes" have it, which not being agreed to, he shall direct the "Ayes" into the right lobby, or right side of the House, and the "Noes" into the left lobby, or left side of the House, and shall appoint two tellers for each party.

Questions put and "Ayes" and "Noes" to take different sides of the House or go into the lobbies.

There are no lobbies in the Victorian Parliament appointed for Members to pass into in order to vote. The Members pass from one side of the House to the other side, according to the side they wish to vote on. The "Ayes" to the right hand side of the Speaker, or Chairman of Committees, the "Noes" to the left. As soon as the tellers have been appointed, no Member can change the side of the House which he had previously taken. If he do, his vote can be challenged, and recorded on the other side of the House on which he had previously sat. (Ruling of Speaker, Legislative Assembly, 22nd December, 1867, M.S.)

If not two tellers no division allowed.

CXIV. In case there should not be two tellers for one of the parties, Mr. Speaker, or the Chairman of Committees, shall forthwith declare the resolution of the House.

The circumstance referred to of their not having been two tellers has occasionally occurred. Members unwilling to divide, or ashamed of too small a minority being declared, have, previous to the appointment of tellers, crossed over to the majority, leaving the Member who had called for and obstinately persevered in a division, by himself.

Members' names taken down.

CXV. If Mr. Speaker shall direct the Members to proceed to the lobbies, the name of every Member in returning from either lobby shall be taken down by the tellers.

See Order CXIII. and note.

Division lists entered in the votes.

CXVI. An entry of the lists of divisions in the Assembly shall be made by the Clerk in the Votes and Proceedings.

*Tellers report the numbers.*

30. *The tellers shall report the numbers to Mr. Speaker, who shall declare them to the House.*

In case of confusion or error, House again divides.

CXVII. In case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the House will proceed to another division.

If the tellers agree as to the mistake, the numbers will then be correctly reported by the Speaker. In point of practice, the Clerk of the House and of the Committee respectively, compare the lists before handing them to the Speaker or Chairman of Committee, and if possible have the errors corrected, otherwise an appeal becomes necessary to the Speaker, and if not within his power to decide, then a second division is inevitable. (33 C. J., 212; 65 *Ib.*, 235; 115 *Ib.*, 332.)

May 9 Mch 408

Mistakes corrected in Votes and Proceedings

CXVIII. If the numbers have been inaccurately reported to the House, the House on being afterwards informed thereof, will order the Votes and Proceedings to be corrected.

May 408-9

# Divisions.

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21 Sept. 86

Divisions.

By the like practice in England if a mistake occur in recording the votes in the Journal of the House it will be corrected (102 C. J., 131.) On the 28th November, 1867, an error in the numbers reported by the tellers in a Committee of the whole House having been discovered before the Chairman had left the Chair, the Committee ordered the numbers to be corrected accordingly. (Votes, 28th November, 1867, Eng.)

CXIX. In case of an equality of votes, Mr. Speaker shall give a casting voice, and any reasons stated by him shall be entered in the Votes and Proceedings.

When votes equal, Mr. Speaker gives casting vote.

This order is identical with the 21st sec. of the Constitution Act which confers on the Speaker a casting vote.

In the performance of the above duty the Speaker or Chairman of Committees is at liberty to vote like any other Member, according to his conscience, without assigning any reason. But in order to avoid any imputation upon his impartiality it is usual with him, when practicable, to vote in such a manner as not to make the decision final. On the third reading of the Succession Duty's Bill (12th May, 1796,) the Speaker in giving his casting vote said, "That, upon all occasions when the question was for or against giving to any measure a further opportunity of discussion, he should always vote for the further discussion, more especially when it had advanced so far as a third reading, and that, when the question turned on the measure itself,—for instance, on the question that a Bill do or do not pass, he should then vote for or against according to his best judgment of its merits, assigning the reasons on which such judgment would be founded" (1 Lord Colchester's Diary, 57; *Ib.*, 85; and see other cases cited, May's Practice of Parliament, 7th ed., pp. 364—7.) To interfere as little as possible with the judgment of the House is the principle upon which the Speaker and Chairman of Committees act. The numbers being equal on a Lords' amendment, the Speaker said he should support the Bill as passed by the House of Commons (168 H., 3rd S., 785.) But where the Speaker considered that the prerogative of the Crown was interfered with, he has voted against the measure (96 *Ib.*, 344.) The Speaker, also, in the cases of the imposition of taxes, or the imposition of other

burdens on the people, gives his casting vote against the tax or imposition, and, if there be a conflict between two sums, he likewise gives his casting vote for the lesser sum.

Divisions in Committee.

CXX. Divisions shall be demanded and taken in Committee of the whole House in the same manner as in the House itself.

See Order CXIII. and note.

No Member to vote personally interested.

CXXI. No Member shall be entitled to vote upon any question in which he has a direct pecuniary interest, and the vote of any Member so interested shall be disallowed.

In order to operate as a disqualification, this interest must be immediate and personal, and not merely of a general or remote description. On the 17th July, 1811, the rule was explained by the then Speaker :—"This interest must be a direct pecuniary interest, and separately belonging to the persons whose votes were questioned, and not in common with the rest of Her Majesty's subjects, or on a matter of State policy." A motion for disallowing the votes of Bank directors on the Gold Coin Bill was negatived (30 H., 1001.) In like manner, on a public Railway Bill, a motion to disallow the vote of a Member because he was a proprietor of railway shares, was negatived (99 *Ib.*, 491.) An objection was raised on the Lands Bill when in the Committee of the whole House of the Legislative Assembly, to disallow the vote of a certain Member as the owner of certain large stations. The Chairman of Committees on the above, and other authorities, overruled the objection. The decision was acquiesced in without appeal. The votes of Members interested in private Bills have frequently been disallowed (80 C. J., 443, 110 ; 91 *Ib.*, 271.) But representing the district is not such a personal interest as to preclude a Member voting on a private Bill affecting that district (South Melbourne Gas Company Extension of Powers Bill, V. H., Vol. XVI., p. ~~763~~.) 749
If any doubt should be entertained by the House whether a vote should be disallowed or not, the Member whose vote is under consideration should withdraw immediately after he has been heard in his place, and before the question is proposed (80 C. J., 100 ; 91 *Ib.*,

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271.) But though a Member interested is disqualified from voting, he is not disqualified from speaking or proposing an amendment. (155 H., 3rd S., 459.)

CXXII. The rule of this House relating to the vote, upon any question in this House, of a member having an interest in the matter upon which the vote is given shall apply likewise to any vote of a Member so interested in a Committee. Nor in Committee.

See preceding order and note.

# CHAPTER IX.

## COMMITTEES OF THE WHOLE.

House resolves itself into a Committee.

CXXIII. A Committee of the whole House will be appointed by resolution—"That this House will resolve itself into a Committee."

A Committee of the whole House is in fact the House itself, presided over by a Chairman instead of by the Speaker. It is appointed pursuant to the above Order. When a future day is fixed for the Committee to hold its first sittings after a general election, a question is put by the Speaker, "That I do now leave the Chair," and when that is agreed to the Speaker leaves the Chair, the mace is removed, and the Committee commences its sitting.

Appointment of Chairman.

CXIV. A Member shall be appointed Chairman of Committees of the whole Assembly, and when so appointed he shall continue to act as such Chairman during the continuance of the Assembly, unless the Assembly shall otherwise direct.

According to the above order, taken in connection with Order CXXVIII., an attempt should be made first in Committee to appoint a Chairman, and in the event of "any difference arising in Committee concerning the election of a Chairman, Mr. Speaker shall resume the Chair, and a Chairman shall be appointed by the House." But in the Session 1868, there being several candidates about to be proposed for the Chairmanship, the Speaker having been appealed to before going into Committee ruled that it had been the invariable practice for the House, and not for the Committee, to appoint the Chairman (V. H., N. S., Vol. VI., p. 600,) and accordingly, upon the occasion in question, instead of waiting

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until the House went into Committee, notices were given in the House by other Members of the names and intention to propose the several candidates. These notices came on in due order of the business of the House, and were decided by the majority of the House, but in the Sessions of 1871 the original practice was resumed (V. H., Vol. XII., pp. 65-6; N. S., Vol. VI., pp. 667-8.) The Chairman when appointed performs in Committee, as occasion requires (Orders CXXVI., CXXVII.,) all the duties which devolve upon the Speaker in the House. He calls upon Members as they rise to speak, puts the question and maintains order, and (Order CXXX.) gives the casting vote in case of a tie. He, however, does not possess the same power to quell disorder in the Committee; he can, under such circumstances, report generally on the motion of some other Member, sometimes on his own responsibility, the matter to the Speaker. (See Order CXXXVI. and notes.)

Quorum in Committee.

CXXV. The quorum in Committee of the whole Assembly shall consist of the same number of Members, exclusive of the Chairman, as shall be requisite to form a quorum of the Assembly.

This is a repetition of Order IX., which see, except that it is rendered more precise by the introduction of the words "exclusive of the Chairman."

When Committee has reported progress.

CXXVI. When a Bill or other matter (except Supply or Ways and Means) has been partly considered in Committee, and the Chairman has been directed to report progress, and ask leave to sit again, and the House has ordered that the Committee shall sit again on a particular day, Mr. Speaker, when the order for the Committee has been read, shall forthwith leave the Chair without putting any question, and the House thereupon resolves itself into such Committee.

In the case of Ways and Means, a motion is made "That Mr. Speaker do now leave the Chair," upon which amendments may be moved (see preceding orders.) And as to the Committees of

Supply and Ways and Means. (See Chapter XVII., Orders CCLXXI. and CCLXXXI.

The mace is placed under the table.

CXXVII. So soon as Mr. Speaker shall have left the Chair, the mace shall be placed under the table, and the Chairman shall take the Chair of the Committee at the table.

See Order CXXXIX. and next order.

In case of difference, House appoints Chairman.

CXXVIII. If any difference shall arise in Committee concerning the election of a Chairman, Mr. Speaker shall resume the chair, and a Chairman shall be appointed by the House.

See Order CXXIV.

A Committee to consider only such matters as are referred.

CXXIX. A Committee shall consider such matters only as shall have been referred to them by the House.

The ordinary function of the Committee is deliberation, and not inquiry. The provision of every public Bill is considered in Committee, and all matters concerning religion, trade, the imposition of taxes, or the grant of public money (see Orders CCXXII., CCXXIII., and CCXXIV.,) as preliminary to legislation; and any other questions which, in the opinion of the House, may be more fitly discussed in Committee, are dealt with in that manner (Education, 1856; Government of India, 1858.) Important inquiries have been intrusted to such Committees (as the want of success of the naval forces during the American war in 1809 the conduct of the Duke of York in 1810; the operation of the Orders in Council in 1808 and 1812.) But of late years, in consequence of the time occupied by such inquiries proving a serious impediment to the general business of the Session, and such a tribunal being ill adapted to close and consecutive examination, no such inquiries have been referred to the Committees of the whole House, while the investigation of matters of equal importance has been more satisfactorily entrusted to secret and select Committees (see Chapter X.) A Committee, by the above Order, can only consider

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case on 7 Derby (mins) Leg: A: - L. 2478

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those matters which have been referred to it by the House. If, in conjunction with the ordinary matters usually entrusted to it, it be desirable that other matters should also be considered, an instruction is given by the House to empower the Committee to entertain them. (See Chap. XI., 32—5, and Orders CLXX. and CCXXXVI.)

CXXX. Every question in Committee shall be decided by a majority of voices, and in case of any equality of voices, the Chairman shall give a casting voice.

Questions decided by a majority of voices.

The proceedings of a Committee are, with a few exceptions, conducted in the same manner as the proceedings of the House when sitting (see above order and Order CXXXV.) Some of these exceptions, viz., "no motion need be seconded," no previous question allowed," and "Members may speak more than once," are provided for by Orders CXXXI., CXXXII., and CXXXIV. As to the Chairman's casting vote, it is usually given on the same principles as the Speaker's. (See Order CXIX. and note.)

CXXXI. A motion made in Committee need not be seconded.

A motion is not seconded.

The propriety of this order has been sometimes questioned, but it appears to derive confirmation from the comparative freedom from restraint with which debates are conducted in Committee. (Order CXXXIV.)

CXXXII. No motion for the previous question can be made in Committee.

No previous question allowed.

The reason of this order is that such a question is less applicable to the proceedings of a Committee. A subject is forced upon the attention of the House at the will of an individual, but in Committee the subject has already been appointed for consideration by the House, and no question can be proposed unless it be within the order of reference. A motion that the Chairman do now leave the Chair, or that he report progress, offered before any resolution has been agreed to or decision arrived at, and with a view to arrest such resolution or decision, has precisely the same effect as moving the previous question. (111 C. J., 134.)

Greater or lesser sum for longer or shorter time.

CXXXIII. When there comes a question between the greater and lesser sum, or the longer or shorter time, the least sum and the longest time shall first be put to the question.

This order is in conformity with an old rule (3rd November, 1675,) of the House of Commons in England. It has more immediate reference to Committees of Supply and Ways and Means (Chapter XVII.,) but is occasionally observed in other Committees in cases to which the rule is applicable. The object of this rule is said to be "that the charge may be made as easy upon the people as possible." But how that desirable result can be secured is not easy apparent; for, if the majority were in favour of the smaller sum they would negative the greater when proposed. One merit of the rule is said to be that the discourtesy of refusing to grant a sum demanded by the Crown is mitigated by this course of proceeding; for, if the smaller sum be resolved in the affirmative, no question is put upon the greater, and a direct negative of the larger sum is thereby avoided. A similar observation applies to the rule for time. But even this reason or excuse fails in the proceedings of the House on the report from the Committee; for there the amendments are proposed in the ordinary form, neither the greater nor the lesser sum, nor the longer nor shorter time being ever regarded in questions proposed in the House itself (50 C. J., 538, and other cases, May, 7th ed., p. 603, N. 2.) Pursuant to a recent order of the House of Commons, the practice of which is observed in the Legislative Assembly, the question upon the whole vote is first proposed from the Chair. And if a motion be made to omit or reduce any item comprised in that vote, a question is put that the item objected to "be omitted from the proposed vote," or "be reduced by the sum of £ ," as the case may be. But where a reduction of the amount of a vote is proposed, the old form of putting the question upon the smaller sum is reverted to, as the rule applies to distinct items only. (9th and 12th July, 1858, 113 C. J., 294, 298; 19th April, 1860, 115 *Ib.*, 191; 9th May, 1862, 117 *Ib.*, 190.)

Members may speak more than once.

CXXXIV. In Committee, Members may speak more than once to the same question.

# Committees of the Whole.

Committees of the Whole.

The above rule indicates one of the main differences between he proceedings of a Committee and those of the House. It is conformable to the old practice, and is made that the details of a question or bill may have the most minute examination. It likewise discourages long speeches, and introduces a more free and conversational mode of debating, and a Member being at liberty to speak frequently, fixes his own and the attention of the Committee on one point at a time, instead of embracing every topic and argument that he is prepared to offer, in the one speech. Members cannot speak to the general policy of a bill or measure in Committee, as that has been already discussed on the second reading or original motion. They are obliged to confine themselves to the particular section or item or proposed amendment immediately under discussion.

CXXXV. The same order in debate shall otherwise be observed in Committee as in the House itself. Order in debate.

See Chapter VII. Order LXXXIII. is excepted by previous Order CXXXIV.

CXXXVI. If any sudden disorder shall arise in Committee, Mr. Speaker shall resume the Chair, without any question being put. Disorder arising.

May P. 9th ed. 437

In May's P. P., 7th ed., pp. 338-9, three remarkable instances are related of the Speaker himself on his motion resuming the Chair—one on the 10th May, 1675, when a serious disturbance in Grand Committee arose, and bloodshed was threatened; another, 27th February, 1810, when a Member, who, for disorderly conduct, had been ordered into custody, returned into the House during the sitting of a Committee, in a very violent and disorderly manner, upon which Mr. Speaker resumed the Chair, and ordered the Sergeant to do his duty, the Chairman not possessing the power; and on the 6th May, 1815, when the House was in Committee on the Corn Bill, tumultuous proceedings took place outside, and the Chairman having complained that the House was surrounded by a military force, the Speaker was sent for, and the House resumed (70 C. J., 143; 2 Lord Colchester's Dairy, 531.) In ordinary cases, offensive language or conduct of any Member (see Rule 96) on the

motion of some other Member (Order XCVI.) is taken down by the *Clerk of the Committee, and reported by the Chairman* to the Speaker, who resumes the Chair (1 C. J., 866; 18 *Ib.*, 653; 108 *Ib.*, 461.) The House, also, has been resumed on account of words of heat or dispute between Members. (10 C. J., 806; 11 *Ib.*, 480; 43 *Ib.*, 467; 106 *Ib.*, 313.

Mr. Speaker resumes the chair.

CXXXVII. Mr. Speaker will also resume the Chair if a message be brought to attend His Excellency or the Governor's Commissioners, in the Legislative Council.

When a quorum of Members not present.

CXXXVIII. If notice be taken, or appear upon a division in Committee, that a quorum of Members be not present, the Chairman shall leave the Chair, and Mr. Speaker shall resume the Chair.

A Committee of the whole House, like the House itself, cannot proceed with business unless twenty Members be present, if notice thereof be taken. It has no power of adjournment. When notice thereof is taken, by any Member calling the attention of the Chairman to the fact, the Chairman having first caused the bells to be rung, and three minutes allowed for the assembling of a quorum having expired, counts the Committee, and if a quorum be not present he leaves the Chair, and reports the fact to the Speaker, who thereupon counts the House, and if a quorum be then present, the House again resolves itself into the Committee (CXXXIX.,) but if not the Speaker adjourns the House without a question first put. So also by the above order, if it appears on division in Committee that a quorum is not present, the Chairman leaves the Chair, and the Speaker counts the House in the same manner.

House counted by Mr. Speaker

CXXXIX. If a quorum of Members be present when the House is counted by Mr. Speaker, the House shall again resolve itself into the Committee of the whole House, without question put.

Report.

CXL. When all matters referred to a Committee have been considered, the Chairman shall be directed to report the same to the House.

Committees of the Whole.

# Committees of the Whole.

If, in Supply or Ways and Means (CXII.,) the Committee have agreed to certain resolutions, but are unable to conclude the consideration of others, it is customary to direct the Chairman to report the resolutions, and ask leave to sit again (Customs and Corn Importation, 1846, 101 C. J., 280-1; Committee of Ways and Means [Income Tax,] 1853, 108 *Ib.*, 431; Customs, 1854, 109 *Ib.*, 470; Supply, 5th August, 1867, 122 *Ib.*, 429.) When resolutions have been proposed and progress reported before they were agreed to at the ensuing sittings of the Committee, resolutions upon other distinct motions may be proposed and agreed to, and the resolutions first proposed taken up again on a more distant day (106 C. J., 57, 104-5; 108 *Ib.*, 442; 108 *Ib.*, 446,) and for this reason no Member can claim to speak first on the renewal of a debate in Committee, when he first reported progress (so ruled by the Speaker, 6th May, 1853 (Mr. Duffy;) and again by the Chairman, 7th June, 1858 (Mr. Roebuck.) The motion that the "Chairman report progress," is used also by Members who desire an adjournment of the debate, or who desire to put an end to the proceedings of the Committee on that day; and when the latter is the object, and the majority of the Committee are against it, but the minority wish to persevere in attaining their object, the latter alternate that motion with the motion "That the Chairman do leave the Chair," the same rule being observed in Committee that is observed in the House, which will not admit of a motion for the adjournment of the debate to be repeated without some intermediate motion (113 C. J., 214; 150 H., 3rd S., 1688; see also Proceedings on Roman Catholic Charities Bill, 21st June, 1860.) In some cases Committees have reported that they had not made progress (116 C. J., 300, 333, 356.) But though a Committee of the whole House cannot adjourn, its sitting may be suspended for a certain time like the sitting of the House itself (101 H., 3rd S., 90; see also 9 C. J., 68;) but such a proceeding is rarely necessary except during the temporary absence of the Chairman, or the adjournment of the Committee for refreshment at half-past six o'clock, when, as frequently occurs, the Committee, and not the House is sitting. If none of the interruptions and delays to which Committees are liable should occur, the Chairman is directed to report the resolutions or other proceedings to the House; until such report has been made no reference may be made to the proceedings of the Committee (see Order CCXLIV.) When a Bill has been gone through, the Chairman puts the "question"

(Order CCXLV.,) "That I do report this Bill (with or without amendments, as the case may be) to the House," which being agre to, the sitting of the Committee is concluded. The Speaker then resumes his Chair, and the Chairman reports accordingly.

Report of progress.

CXLI. When all such matters have not been considered, the Chairman shall report progress, and ask leave to sit again.

See CXL., note.

Motion to report progress.

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CXLII. A motion may be made during the proceedings of a Committee that the Chairman do report progress and ask leave to sit again.

See preceding orders and note to CXL.

*Motion that the Chairman do now leave the chair.*

31. *A motion that the Chairman do now leave the Chair, will, if carried, supersede the proceedings of a Committee.*

Sometimes the proceedings of a Committee are brought abruptly to a close by a motion being carried "That the Chairman do now leave the chair," in which case the Chairman, being without instructions from the Committee, makes no report to the House. A matter disposed of in this way disappears from the notice paper, and is generally regarded as defunct, but as the House cannot be bound by the decision of a Committee, and has not itself agreed to any vote by which the Bill or other matter has been postponed for the Session, it is competent for the House, upon motion, to appoint another day for the Committee to proceed with the Bill or other matter (Pauper's Removal Bill, 1815; General Turnpike Bill, 1827; Saving's Bank and Friendly Societies Bill, 1860; Court of Chancery Bill, 1864, 171 H., 3rd S., 99.) It was also ruled according to precedent that no notice was necessary of the renewal of the Committee (Joint Stock Companies' Voting Papers Bill, 1864.) When the Committee, on a Bill, is so renewed, its proceedings are resumed at the point at which they were interrupted, having been valid, and duly recorded in the minutes until the Chairman was directed to leave the Chair. (Savings' Bank and Friendly Societies Bill, 31st July, 1860.)

# Committees of the Whole.

Committees of the Whole.

CXLIII. Every report from a Committee of the whole House shall be brought up without any question being put. Report to be brought up without question.

See CCXLV.

CXLIV. Unless otherwise directed, amendments made by the Committee to public Bills shall be appointed to be considered on a future day. Amendments made to public Bills.

See CCXLVI.

CXLV. Lists of divisions in Committee of the whole Assembly shall be printed weekly. Division lists.

CXLVI. The resolutions reported from a Committee may be agreed to or disagreed to by the House, or agreed to with amendments, recommitted to the Committee, or the further consideration thereof postponed. Resolutions of Committee.

See CCXVI.

# CHAPTER X.

## SELECT COMMITTEES.

Committees not to consist of less than five, nor more than twelve Members without leave.

CXLVII. No Select Committee shall without leave of the House, consist of less than five, nor more than twelve Members; such leave cannot be moved for without notice; and in the case of Members proposed to be added or substituted after the first appointment of the Committee, the notice is to include the names of the Members proposed to be added, or substituted, but it shall not be compulsory on Mr. Speaker or the Chairman of Committees to serve on any Select Committee. The quorum of every Select Committee shall be fixed at the time of appointing such Committee.

It will be observed that Select Committees cannot be less than five and not more than twelve, if, therefore, a Member desires to enlarge the number of Members, he must first obtain the consent of the House. Neither the Speaker nor the Chairman of Committees can be compelled to serve on such Committees. Select Committees are governed generally in their proceedings by the same rules as prevail in Committees of the whole House. (32 H., 3rd S., p. 505.)

Willingness of Members to attend to be ascertained.

CXLVIII. Every Member intending to move for the appointment of a Select Committee, shall endeavour to ascertain previously whether each Member proposed to be named by him on such Committee will give his attendance thereupon.

Notice of nomination to be given.

CXLIX. Every Member intending to move for the appointment of a Select Committee shall, one day next

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before the nomination of such Committee, place on the notice paper the names of the Members intended to be proposed by him to be members of such Committee, but if the mover be desirous the Committee should be appointed by ballot, then the number only need be stated.

Except when appointed by ballot.

CL. If upon any motion for a Select Committee any six Members shall require it, such Committee shall be formed in the following manner, viz.:—Each Member shall deliver at the Clerk's table a list of the Members whom he wishes to be appointed on such Committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected; and Mr. Speaker shall appoint two Members to be scrutineers, who, with the Clerk, shall ascertain the number of votes for each Member; and the Members who shall be reported to have the greatest number of votes shall be declared by the Speaker to be the Members of such Committee; and in any case of doubt arising from two or more Members having an equality of votes, Mr. Speaker shall decide which shall serve on such Committee.

Manner of balloting for Committee.

CLI. Lists shall be affixed in some conspicuous place in the lobby of the House, of Members serving on Select Committees.

Lists of Members serving.

CLII. Every Select Committee, previous to the commencement of business, shall elect one of its Members to be the Chairman.

Election of Chairman.

The first proceeding of a Committee under the above order is to choose a Chairman, who is ordinarily called to the chair by the general voice of the Members present; usually the mover of the motion for the Select Committee is elected to be Chairman, but in the event of a difference of opinion, the choice is governed by the

same rules as those observed by the House in the election of a Speaker or Chairman of the whole House. As to the right of Chairman to a double vote see Order CLXI, and note thereto, *post*.

Names of Members asking questions to be entered in the minutes.

CLIII. To every question asked of a witness under examination in the proceedings of any Select Committee, shall be prefixed in the minutes of the evidence the name of the Member asking such question.

Names of Members present to be entered.

Divisions to be entered.

CLIV. An entry shall be made in the proceedings of the names of the Members attending each Committee meeting, and of every motion or amendment proposed in the Committee, together with the name of the mover thereof; and if any division take place in the Committee, the Clerk shall take down the names of the Members voting in any such division, distinguishing on which side of the question they respectively vote, and such lists shall be given in with the report to the Assembly.

When quorum not present.

CLV. If at any time during the sitting of a Select Committee of this House the quorum of Members fixed by the House be not present, the Clerk of the Committee shall call the attention of the Chairman to the fact, who shall thereupon suspend the proceedings of the Committee until a quorum be present, or adjourn the Committee to some future day.

Members discharged and added.

CLVI. Members may be discharged from attending a Select Committee, and other Members appointed, after previous notice given in the Votes.

Power to send for persons, papers, and records.

CLVII. Whenever it may be necessary, the House may give a Committee power to send for persons, papers, and records.

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CLVIII. When a Committee is examining witnesses, strangers may be admitted or excluded at pleasure; but shall always be excluded when the Committee is deliberating. Admission of witnesses to Committees.

CLIX. Members of the House may be present when a Committee is examining witnesses; but withdraw by courtesy, when the Committee is deliberating. When Members of the House may be present.

CLX. No strangers, or Members not being of the Committee, shall be admitted at any time to a Secret Committee. Secret Committee.

Several precedents establish that Members of the House, not being Members of the Committee, cannot be excluded from a Committee room by the authority of the Committee; and that if there should be a desire on the part of the Committee that Members should not be present at their proceedings, when there is reason to apprehend opposition, they should apply to the House for the required authority. At the same time it must be observed that such applications have not been very favourably entertained by the House, and it is left to the good taste of the Members themselves not to insist on their privilege; but when, in the opinion of the House, secrecy ought to be maintained, Secret Committees under the above rule are appointed, whose inquiries are conducted throughout with closed doors. (38 C. J., 430—5; 65 *Ib.*, 37; 92 *Ib.*, 36, &c.)

CLXI. The Chairman of a Select Committee can only vote when there is an equality of voices. Chairman can only vote when voices equal

Every question is determined in a select Committee in the same manner as the House to which it belongs. The above rule is copied from a similar English one which was passed in consequence of the Chairman of a Select Committee (25th March, 1836) having claimed the privilege to vote as a Member of the Committee, and afterwards, when the voices were equal of giving a casting vote as Chairman. (See also Electoral Act, 1856, Sec. 63, Adamson's

Statutes, Vol. II., p. 1600.) But on the report of the Committee of Elections and Qualifications, in the case of W. T. N. Champ, the House, after debate, declared its opinion to be that, in the decision of questions before such Committees, it is competent for the Chairman to vote as a Member of the Committee, and afterwards, when the voices are equal, to give a casting vote as Chairman. (V. H., Vol. XII., pp. 612—636.)

Committe adjourns.

CLXII. A Select Committee may adjourn from time to time; and by leave of the House, from place to place.

All proceedings void after notice that Mr. Speaker is to take chair.

CLXIII. All Committees sitting at the time that Mr. Speaker is about to take the Chair shall be informed by the Serjeant-at-Arms that Mr. Speaker is about to take the Chair, and all proceedings after such notice are declared to be null and void.

Not to sit during sitting or adjournment of the House without leave.

CLXIV. Except by leave of the House, no Select Committee may sit during the sittings of the House, or on any day on which the House itself is not appointed to sit.

Evidence, &c., not to be published before reported.

CLXV. The evidence taken by any Select Committee of this House, and documents presented to such Committee, and which have not been reported to this House, shall not be published by any Member of such Committee, nor by any other person.

The Committee is not compelled to report all the evidence or papers which come before it. (38 H., 171, 174.)

Report from time to time

CLXVI. By leave of the House a Committee may report its opinion or observations from time to time, or report the minutes of evidence only, or proceedings from time to time.

A Committee has no power to report either their opinions or the minutes of evidence taken before them without receiving power from the House for that purpose. Accordingly, when this power

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leave given to 4 Committees to sit during adjt.
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has not been given on the first appointment of the Committee, the Chairman, before he brings up the report, moves that the Committee have power to report their observations or opinion and minutes of evidence as the case may be. When a Committee desires to make a report to the House relating to any circumstance beside the immediate order of reference, leave is obtained to make a special report (111 C. J., 279, 360.) It is the general custom to withhold the evidence until the inquiry has been completed, and the report is ready to be presented. But on the 29th April, 1862, a case of that kind having arisen, the House, in order to obviate the difficulty, ordered the evidence of the previous Session to be laid before them, and when presented it was referred to the Committee with leave to report it forthwith. Whenever an intermediate publication of the evidence, or more than one report may be thought necessary, the House will grant leave under the above order on the application of the Chairman, for the Committee to report its "opinion or observations from time to time," or to report "minutes of evidence" only from to time; and until the report and evidence have been laid upon the table it is irregular to refer to them in debate, or to put questions in reference to the proceedings of the Committee (159 H., 3rd S., 814; 189 *Ib.*, 604.) A Committee reappointed cannot report the evidence taken before the Committee in the previous Session, except as a paper in the appendix.

Chairman to prepare report.

CLXVII. It shall be the duty of the Chairman of every Select Committee to prepare the Report.

See note Order CLXIX. *infra.*

Proceedings on consideration of draft report.

CLXVIII. The Chairman shall read to the Committee convened for the purpose of considering the report, the whole of his draft report, which shall be printed and circulated amongst the Members of the Committee; and at some subsequent meeting of the Committee the Chairman shall read the draft report paragraph by paragraph, putting the question to the Committee at the end of each paragraph, that it do stand part of the report. A Member objecting

to any portion of the report shall propose his amendment at the time the paragraph he wishes to amend shall be under consideration.

See note next order.

Report brought up.

CLXIX. The report of a Committee shall be brought up by the Chairman, and may be ordered to lie upon the table, or otherwise dealt with as the House may direct.

There have been instances in which the Chairman of a Committee, after the Committee had reported, has published his own draft report which had not been accepted, accompanied in some cases by additional arguments and illustrations (Agricultural Distress, 1836; Income Tax, 1861,) and no objection has been urged against such a publication. But on the 21st July, 1858, it was brought to the notice of the House that the Chairman of a Committee had published and circulated, in the form of a Parliamentary proceeding, a draft report which he had submitted to the Committee, but which had not been entertained by them, accompanied by observations reflecting upon the conduct and motions of Members of that Committee. No formal vote was sought for on that occasion, but it was generally agreed that the proceeding was irregular and contrary to the usage of Parliament (151 H., 3rd S., 1867.) In one case the report of a Committee had been made and ordered to be printed in the previous Session, but was in fact prepared by the Chairman after the Prorogation. A Committee was appointed to consider the circumstances under which the document purporting to be the report of the Committee had been ordered to be printed, and on their report being received the House resolved, "That the document was not a report which had been agreed to by the said Committee, and that the said document be cancelled" (102 C. J., 254, 682; H., 16th June, 1847.) Evidence improperly appended has also been ordered to be cancelled (118 C. J., 189.) When the evidence has not been reported by a Committee, it has sometimes been ordered to be laid before the House (88 *Ib.*, 671; 105 *Ib.*, 651, &c.) It is usual, however, to present the report, evidence, and appendix together, which are ordered, on the motion of the Chairman or other Member of the Committee presenting the report, to lie on the table. Any

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motion may be founded on a report, as that it be recommitted (76 *Ib.*, 213; 88 *Ib.*, 583,) or taken into consideration on a future day (86 *Ib.*, 167.) In 1850, the House, instead of ordering the evidence to be printed, referred it "to the Secretary of State for the Colonies, for the consideration of Her Majesty's Government" (Ceylon Committee, 105 *Ib.*, 661.) Members of a Select Committee cannot append a protest to the report or minutes; but they may speak and vote in the House against it (V. H., Vol. X., p. 1212.) Until its report has been brought up allusions cannot be made to the proceedings of a Select Committee. (V. H., Vol. XIV., p. 257.)

# CHAPTER XI.

## INSTRUCTIONS TO COMMITTEES AND WITNESSES.

*Effects of an instruction.*

32. *An instruction empowers a Committee of the whole House to consider matters not otherwise referred.*

*Committees on Bills to make amendments relevant to subject matter.*

33. *It is an instruction to all Committees of the whole House to whom Bills may be committed, that they have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the Bill; but if any such amendments shall not be within the title of the Bill, they shall amend the title accordingly, and report the same specially to the House.*

Before the House resolves itself into Committee, an express instruction may be given to the Committee, empowering them to make provisions for any matters *not relevant* to the subject matter of the Bill. By Order CCXXXVII.—"It may be moved to the Committee on the Bill, but ought not to be moved by way of amendment." An instruction does not *order* the Committee to make any provision, but merely instructs them "that they have power to make it," or in other words give them the power to make such amendments, as without the instruction they would not have the power to do. Impliedly, every Committee has power to make all amendments to any Bill submitted to it which are *relevant* to the subject matter of the Bill. But they have no power implied or otherwise to make amendments in matters *irrelevant*. Thus in the Markets and Fairs (Ireland) Bill (20th March, 1862,) a provision for the equalisation of weights and measures on all mercantile transactions in Ireland required an instruction (165 H., 3rd S., 1876.) And an instruction was deemed necessary to enable the Committee on a Bill for the registration of county votes,

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to extend certain provisions relating to the duties and powers of revising barristers to cities and boroughs (MS. minute.) And an instruction was needed to entitle the Committee on the Union Chargeability Bill, which regulated the charges upon parishes within existing unions, to make provisions for altering the boundaries of unions which had been the subject of a distinct Act (179 H., 3rd S., 98.) By next Order (CLXX.) mandatory instructions may be given to make certain amendments; but these are now confined to proceedings unconnected with the provisions of the Bill (13 C. J., 466, 759; 16 *Ib.*, 426, 493, 604;) and by the above Rule 33, "If any amendment be not within the title of the Bill, the Committee shall amend the title accordingly, and report the same specially to the House;" and by Rule 35 *post.* But though the House has power generally to instruct Committees on matters not relevant to the Bill, it cannot instruct it on matters of such a nature as ought to have been considered in the Committee of the whole House, such as imposing a charge upon the people, religion, or trade, as thereby the Orders of the House (CCXXII., CCXXIII., CCXXIV.) would be evaded. In such a case the course would be to allow the Bill to pass through Committee, obtain a resolution of a Committee of the whole House, and on that found an instruction upon a motion for a re-commitment of the Bill. (78 H., 3rd S., p. 904.)

CLXX. Instructions may be moved ordering a Committee to make provisions in a Bill; but not to empower a Committee to make such provision if they already have that power.

What instructions may and may not be moved.

See note to preceding rule. The best illustration of the rules and principles applicable to such proceedings is the occasion on which instructions were given to the Committee on the Representation of the People Bill (4th June, 1860.) Some were held to be inadmissible, as the Committee already had power to make the required provision; some as being mandatory in form; two on the ground that as they related to religion, a preliminary Committee was necessary; and one as referring to the United Kingdom, in anticipation of two other Bills for amending the representation of Scotland and Ireland already appointed for consideration. An

amendment to a proposed instruction was also overruled as referring to a matter within the competency of the Committee, and also as being mandatory. (158 H., 3rd S., 1951, 1988.)

*When instructions to be moved.*

34. *An instruction should be moved after the Order of the Day for going into Committee has been read, and not as an amendment to the question that Mr. Speaker do now leave the Chair.*

The inconvenience arising from moving instructions in the form of an amendment to the Speaker leaving the Chair orginated the above rule ; for if the amendment should be agreed to, it would supersede the main question, and thus prevent the Speaker leaving the Chair, which is not the object of the amendment nor the desire of its mover. Hence when notice has been given of moving an instruction to the Committee on a Bill, and also an amendment to the question for the Speaker to leave the Chair, precedence is given to the former (149 H., 3rd S., 1406.) Any number of amendments may be moved in succession to the Committee on the same Bill, as each question for an instruction is separate and independent of every other. Amendments may also be moved to a question for an instruction (101 C. J., 813,) provided that if the amendment be so framed that if agreed to the question as amended would retain the form of an instruction, and its matter be such as may properly form the subject of an instruction. (May's P. P., pp. 497-8, 7th ed.)

*Instruction to a Select Committee.*

35. *An instruction to a Select Committee extends or restricts the order of reference.*

For Select Committees, see preceding chapter.

Witnesses summoned by orders of the House.

CLXXI. Witnesses should be summoned in order to be examined at the Bar of the House, or before a Committee of the whole House, or a Select Committee, by orders of the House, signed by the Clerk.

The above and following orders and rules in this chapter relate to witnesses, their class, mode of examination, privileges, &c. If the House have reason to believe that a witness is purposely

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keeping out of the way to avoid being served with the order, it has been usual to direct that the service of the order at his house shall be deemed good service (66 C. J., 295, 358.) If after such service of the order the witness should not attend, he is ordered to be taken in custody by the Serjeant-at-Arms (*Ib.*, 400,) but the execution of this order is sometimes stayed for a certain time (*Ib.*, 358.) If the officers of the House do not succeed in taking the witness into custody by virtue of this order, the last step taken is to address the Crown to issue a proclamation with a reward for his apprehension (*Ib.*, 441-2.) Any person who aids or abets a witness in keeping out of the way is liable to a similiar punishment (90 *Ib.*, 330.) By Order CLXXX., tampering with, deterring, or hindering a witness from giving evidence is declared to be a high crime and misdemeanour, and the House will proceed with the utmost severity against such. When the Serjeant has succeeded in apprehending such persons they are generally sent to the common gaol (*Ib.*, 343-4.) If a witness should be in custody by order of the other House, his attendance is secured by a message desiring that he may attend in the custody of the Usher, or the Serjeant-at-Arms, as the case may be (11 *Ib.*, 296—305; 15 *Ib.*, 376.) The attendance of a witness before a Committee on a private Bill is generally secured by the promoters and opponents themselves, without any order or other process; but if a witness should not attend at the instance of the parties, his attendance is enforced by an order of the House (104 *Ib.*, 386, &c.) The subsequent Orders CLXXIII., CLXXIV., and CLXXV., provide powers for Select Committees to examine and enforce the attendance of witnesses.

Witnesses in custody.

CLXXII. Where a witness shall be in the custody of the keeper of any prison, such keeper may be ordered to bring the witness in safe custody, in order to his being examined and from time to time as often as his attendance shall be thought necessary; and Mr. Speaker may be ordered to issue his warrant accordingly.

See note preceding order.

Summoned by Committees.

CLXXIII. A Committee having power to send for persons, papers, and records, may summon witnesses by its own order, signed by the Chairman.

When witness does not attend a Committee.

CLXXIV. If any witness shall not attend, pursuant to the order of a Committee, his absence shall be reported, and the House will order him to attend the House; but such order may be discharged in case the witness shall have attended the Committee before the time appointed for his attending the House.

See note, Order CLXXI.

Neglect or refusal to attend.

CLXXV. In any case, the neglect or refusal of a witness to attend in obedience to an order of the House, or of a Committee having power to summon witnesses, or in obedience to a warrant of Mr. Speaker, will be censured or otherwise punished, at the pleasure of the House.

See note, Order CLXXI.

Attendance of Members to be examined.

CLXXVI. When the attendance of a Member is desired, to be examined by the House or a Committee of the whole House, he is ordered to attend in his place.

The above and next order and rule (36) regulate the practice with regard to members as witnesses. In 1731, Sir A. Grant, a Member, was committed to the custody of the Serjeant-at-Arms, "in order to his forthcoming to abide the orders of the House," and was afterwards ordered to be brought before a Committee from time to time in the custody of the Serjeant (21 C. J., 851-2.) In June, 1842, a Committee reported that a Member had declined complying with their request for his attendance (97 *Ib.*, 438,) but the Member having at last expressed his willingness to attend, the motion was withdrawn (*Ib.*, 438, 453, 458.) The practice with regard to requiring the attendance of Members of the Council is regulated by Order CLXXVIII. A message is sent to the Council to request that "the Council give leave to such Member or Officer to attend, in order to his being examined accordingly, upon the matters stated in such message." If the Member should be in his place when this message is received, and he consents, leave is immediately given for him to be summoned if he think fit. If not present, a message is returned on a future day when the Member

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in his place has consented to go. Whenever the attendance of a Member of the other House is desired by a Committee, it is advisable to give him private intimation, and learn that he is willing to attend before a formal message is sent to request his attendance. But those formalities are not usual or necessary in the case of private Bills, where the attendance of witnesses is voluntary (6 Hat., 21.) The same ceremony is maintained between the two Houses in requesting the attendance of officers connected with their respective establishments.

CLXXVII. If a Committee desire the attendance of a Member as a witness, the Chairman shall in writing request him to attend. By a Committee.

See preceding note.

36. *If any Member of the House refuse, upon being sent for, to come, or to give evidence or information as a witness to a Committee, the Committee ought to acquaint the House therewith, and not summon such Member to attend the Committee.* *If a Member refuse to attend.*

See note, Order CLXXVII.

37. *If any information come before any Committee that chargeth any Member of the House, the Committee ought only to direct that the House be acquainted with the matter of such information without proceeding further thereupon.* *Committee to acquaint House of charges against Members.*

See note, Order CLXXVII.

From the position of the above rule (37,) placed subsequent to the above order and rule and Order CLXVIII., it is presumed that the information which comes before the Committee has reference to the Member's conduct as a witness, or his refusal to attend, or declining to give evidence, or otherwise, in the opinion of the Committee, misconducting himself as such witness. Every Committee has power to report special matter to the House, and take its opinion on such special matter.

Message for attendance of Member or officer of the Legislative Council.

CLXXVIII. When the attendance of a Member of the Legislative Council, or of an Officer of that House is desired, to be examined by the House, or any Committee thereof (not being a Committee on a private Bill,) a message shall be sent to the Council to request that the Council give leave to such Member or Officer to attend, in order to his being examined accordingly upon the matters stated in such message.

Witnesses not examined on oath except in certain cases.

CLXXIX. Witnesses cannot be examined upon oath by the House, or any Committee thereof, except in cases provided for by statute.

Tampering with witnesses.

CLXXX. If it shall appear that any person hath been tampering with any witness, in respect of his evidence given before this House, or any Committee thereof, or who directly or indirectly hath endeavoured to deter or hinder any person from appearing or giving evidence, the same is a high crime and misdemeanor; and the House will proceed with the utmost severity against such offender.

Witnesses entitled to protection.

CLXXXI. All witnesses examined before this House or any Committee thereof, are entitled to the protection of the House in respect of anything that may be said by them in their evidence.

The above rule expresses the privilege claimed by the House of Commons in England in respect of witnesses examined before it. Witnesses, petitioners, counsel, and others, have always been protected by privilege from the consequence of any statement which they may have made before either House, and any molestation, threats, or legal proceedings against them will be treated by the House as a breach of privilege. The following is one of several instances in which the House has carefully guarded this privilege. On the 23rd November, 1696, a complaint was made that Sir

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George Meggott had prosecuted several persons at law, for what they testified the last Session at the Committee of Privileges and Elections. It was referred to that Committee to examine the matter of the complaint, and it appeared from their report, 4th December, "that Sir George Meggott having thought himself injured by their evidence, did think he might lawfully have done himself right by an action, but as soon as he was better advised, he desisted, and suffered himself to be nonsuited, and had paid them their costs." Notwithstanding his submission, the House agreed with the Committee in a resolution that he had been guilty of a breach of privilege, and committed him to the custody of the Serjeant-at-Arms. (See other instances, May's P. P., 7th ed., pp. 153—7.) And on extraordinary occasions, where further protection has been deemed necessary to elicit full disclosures, Acts have been passed to indemnify witnesses from all the penal consequences of their own testimony (Imperial Statutes, 5 and 6 Vic., c. 31; 6 and 7 Vic., c. 11; 7 and 8 Vic. c. 7.) But not only is the privilege from arrest extended to witnesses for what they may say, but they are also freed from arrest and molestation in coming, staying, and returning, and to Officers of either House in immediate attendance upon Parliament; and from a very early period this privilege or protection has been insisted on (1 C. J., 505; 2 *Ib.*, 107, &c.,) and numerous instances have occurred in which witnesses arrested on their way to or from Parliament, or during their attendance there, have been discharged out of custody, and the same protection is extended, not only to parties, but to their counsel and agents in prosecuting any business in Parliament (88 L. J., 189; 92 *Ib.*, 75-6; 9 C. J., 472; 24 *Ib.*, 170; and see several other cases referred to, May's P. P., 7th ed., pp. 152—9.) It is, in point of fact, the same privilege as is claimed by every court of justice of protection to its suitors, officers, and witnesses. (Chitty's Archbold's Practice, 11th ed., p. 768.)

Evidence not to be given elsewhere of proceedings without leave.

CLXXXII. No Clerk or Officer of this House, or Short-hand-Writer employed to take minutes of evidence before this House, or any Committee thereof, may give evidence elsewhere in respect of any proceedings or examination had at the Bar or before any Committee of this House, without the special leave of the House.

On the 26th May, 1818, the Speaker called the attention of the House to the King *v.* Merceron (2 Starkie, Nisi Prius Cases, 366,) in which the shorthand-writer of the House had been examined without previous leave, and it was resolved *nem. con.* in the words which are embodied in the above order (73 C. J., 389.) Whenever the parties to a suit desire to produce such evidence or any other document in the custody of Officers of the House in a court of law, they petition the House, praying that the proper officer may attend and produce it (106 *Ib.*, 212, 277.) During the recess, however, it has been the practice for the Speaker, in order to prevent delays in the administration of justice, to allow the production of the minutes of evidence and other documents on the application of the parties to a private suit, but if there be a question of privilege, or the production of the document should appear on other grounds to be a subject for the discretion of the court itself, he will decline to grant the required authority. Nor can a Member, without leave of the House, give evidence in relation to any debates or proceedings in Parliament (18 H., N. S., 968, 974;) and in courts of law it has been held that such evidence is not to be received without the permission of the House unless the Member desires to give it. (Chubb *v.* Salomons, 3 Carrington and Kirwan, 75.)

*Witness at the Bar.*

38. *When a witness is examined by the House or a Committee of the whole House, the Bar is kept down.*

Examined by Mr. Speaker.

CLXXXIII. When the witness appears before the House Mr. Speaker shall examine the witness, the mace being on the table; and no other Member shall put any question otherwise than through Mr. Speaker.

The above and following orders and rules regulate the mode in which the several kinds of witnesses, viz., ordinary witnesses, Judges, and Members of the House, are examined. In the House the Speaker alone puts the questions; any Member desirous of asking a question puts it through the Speaker; if a question is objected to, the witness withdraws during the discussion, and the same course is adopted in Committee, when the propriety of a question is disputed. In either a Committee of the whole House (R. 40,) or Select Committees, Members may put questions to the

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witnesses without the intervention of the Chairman. Members of the House are examined in their places, and Judges have chairs placed for them within the Bar (Rule 39.)

CLXXXIV. When a witness is in custody at the Bar, the mace being on the Serjeant's shoulder, he shall be examined by Mr. Speaker alone, and no member shall speak. Witness in custody at the Bar.

See preceding order and note thereto.

CLXXXV. If any question be objected to, or other matter arise, the witness shall withdraw while the same is under discussion. Witness withdraws question objected to.

CLXXXVI. A Member of the House shall be examined in his place. Member examined in his place.

39. *Judges are introduced by the Serjeant, and have chairs placed for them within the Bar.* *Judges, how examined.*

40. *In Committee of the whole House any Member may put questions to the witness.* *Witnesses examined in Committee of the whole House.*

The above rule establishes the distinction between the House and the Committee of the whole House; in the former, the Speaker alone (by Order CLXXXIV.) is entitled to put questions to the witness, whereas in the latter any Member may put a question.

# CHAPTER XII.

## MESSAGES.

Message from the Governor.

CLXXXVII. Whenever a message from the Governor shall be announced, the business before the Assembly shall be immediately suspended, and the bearer of the message introduced to deliver the message to Mr. Speaker.

How dealt with.

CLXXXVIII. Mr. Speaker shall immediately read the message to the Assembly; and, if necessary, a day shall be fixed for taking the same into consideration.

Messages are one of the constitutional forms by which the Governor, representing the Crown, communicates with the Parliament. The most important mode of communication is exemplified on the occasion when the Governor, representing the Crown as above mentioned, in person opens or prorogues Parliament, and a speech is delivered by him on the occasion to both Houses. The three estates may be then said to be in direct communication with each other.

Messages are the more frequent modes of communication, and are delivered by a Minister of the Crown, being a Member of the House. The subjects of such messages are usually replies to addresses, or have reference to public events which require the attention of Parliament, or the submitting of other matters to the deliberation of Parliament, besides the causes of summons previously declared. They, as well as other forms of communication, are recognised as the constitutional declarations of the Crown, suggested by the responsible Ministers by whom they are announced, to the Parliament in compliance with established usage. The mode of procedure is regulated by the above two and next following orders.

Messages.

Messages.

CLXXXIX. A message from the Governor may be communicated to the House by a Minister of the Crown, being a Member. How communicated.

CXC. A messenger from the Council, not being the Clerk-Assistant of that House, shall be introduced by the Serjeant with the mace, and conducted to the table, where he shall deliver the message or Bills. Messenger from the Legislative Council, how received.

The mode of communication between the two Houses is also by message. The subject matter of such messages generally has reference to Bills under consideration in either House, or matters requiring the decision of both Houses. The mode of procedure is regulated by the above and two next following orders, and also the Joint Standing Orders (3rd August, 1857,) I. to VII. both inclusive. (Tit. Messages, pp. 130—2, *infra.*)

CXCI. When the messenger shall have delivered his message he shall withdraw with the Serjeant, and the mace shall be put upon the table, when, if any answer is to be returned, he shall be again called in, and Mr. Speaker shall deliver such answer, or acquaint him that the House will send an answer by a messenger of its own. Delivers the message and withdraws.

CXCII. Messages to the Council shall be in writing, and shall be communicated by the Clerk-Assistant of the House, unless the House shall otherwise direct. Messages to Legislative Council communicated by Clerk-Assistant.

# CHAPTER XIII.

## ADDRESSES.

Addresses how presented.

CXCIII. Addresses to the Governor may be presented by the whole House, by Mr. Speaker, or by such Members as are of Her Majesty's Executive Council, or by such Members as the House may name for that purpose.

The subjects upon which addresses are presented are both numerous and varied. They comprise all matters on public policy; the administration of justice; the confidence of Parliament in the Ministers of the Crown; expressions of congratulation or condolence, and in short representations upon all points connected with the Government and welfare of the country. But they ought not to be presented in relation to any Bill depending in either House of Parliament (12 L. J., 72, 81, 88; 8 C. J., 670; 1 Grey's Debates, 5.) Addresses may be presented either by the Legislative Assembly on its own behalf, or jointly with the Legislative Council. The mode of proceeding is regulated by the next five following rules.

*By the whole House.*

41. *When an address is ordered to be presented by the whole House, Mr. Speaker, with the House, shall proceed to Government House, and being admitted to the Governor's presence, Mr. Speaker shall read the address to the Governor, the Members who moved and seconded such address being on his left hand.*

*Addresses in which the Council shall join the Assembly.*

42. *All addresses to the Governor in which the Council shall join the Assembly shall be presented by Mr. Speaker, and such Members as may be named by the Assembly, together with those appointed by the Council.*

# Addresses.

Addresses.

43. *When a joint address shall be ordered to be presented to the Governor by both Houses, the President and Members of the Council, and Mr. Speaker, with this House, proceed to the Government House, and being admitted to the Governor's presence, the President of the Council (with Mr. Speaker on his left hand) shall read the address to the Governor.*

*Joint addresses of Council and Assembly how presented.*

44. *The Governor's answer to any address presented by the whole House shall be reported by Mr. Speaker.*

*Governor's answer to address presented by the whole House.*

45. *The Governor's answer to any address presented otherwise than by the whole House shall be reported to the House by the person presenting the address.*

*To address presented otherwise than by the whole House.*

CXCIV. The concurrence of one House in an address communicated by the other shall be signified by message.

Concurrence of other House by message signified.

# CHAPTER XIV.

## PETITIONS.

Order of presenting petitions.

May 9th 622

CXCV. No petition shall be presented during any debate, nor after the Assembly shall have proceeded to the Notices of Motion or Orders of the Day, unless petitions referring to the Question before the Chair, which may be received immediately upon the reading of the Order of the Day or Notice of Motion.

Petitions are presented principally in respect of general measures of public policy (CCXVII.;) occasionally they are presented for the redress of some specific grievance (CCV. and notes.) Petitions for compensation for or against some individual grievance likely to be inflicted by some public Bill then being passed, may be regarded as an illustration of the latter class. The former class are never referred to a Committee to consider; but those complaining of some special grievance are, if a proper *primâ facie* case be made out. Petitions to the House of Assembly should be fairly written, not printed or lithographed (CXVII.,) and should be superscribed or headed "To the Honorable the Speaker, and the Members of the Legislative Assembly of the Colony of Victoria." A general designation of the parties should follow, and if there be only one petitioner, then his name after this manner—"The humble petition of (here insert the name and other designation) sheweth," &c. The general allegations of the petition must be (XCVII.) concluded by what is called "a prayer," in which the particular object of the petition is expressed and asked for. To the whole petition are generally added these words of form "And your petitioner as in duty bound will ever pray, &c.," to which must be appended—not pasted upon or otherwise transferred thereto (CCI.) the signatures or marks of the parties themselves, except in the case of incapacity

# Petitions.

# Petitions

Mary 9th ed.n p. 609 shows what is meant by "the prayer" viz the expression of the particular object of the Petn

by sickness (CC.) There must be at least one signature on the skin or sheet on which it is written (CXCVIII.) If written in a foreign language it must be accompanied by a translation, certified by the Member who presents it to be true and correct. Petitions of whatever kind must be presented by a member, who must affix his name at the top of the petition (CCIX.,) he thereby taking the responsibility upon himself that the petition so presented by him is in conformity with the orders and rules of the House. (CCX.)

CXCVI. Every petition shall be fairly written; and no printed or lithographed petition will be received. Petitions to be in writing

CXCVII. Every petition must contain a prayer at the end thereof. To contain prayer at the end.

Without a prayer a document will not be taken as a petition (7 C. J., 427; 98 *Ib.*, 457,) and a paper assuming the style of a declaration, an address of thanks, or a remonstrance only, without a proper form of prayer, will not be received (60 H., 3rd S., 640; 64 *Ib.*, 423; 97 C. J., 470; 98 *Ib.*, 461; and other cases cited May's P. P., 7th ed., pp. 546—8, and Burke's Parliamentary Practice Cases, pp. 260—284.)

CXCVIII. Every petition must be signed by at least one person on the skin or sheet on which the petition is written. To be signed on the same skin or sheet

If the chairman of a public meeting sign a petition on behalf of those assembled, it is only received as a petition of this individual, because the signature of one party for others cannot be recognised. (10 C. J., 285.)

CXCIX. Every petition shall be written in the English language, or be accompanied by a translation certified by the Member who presents it to be true and correct. To be in English, or with a certified translation.

CC. Every petition shall be signed by the parties whose names are appended thereto, by their names or marks, and by no one else, except in case of incapacity by sickness. To be signed by the parties.

Signatures not to be transferred.

CCI. The signatures shall be written upon the petition itself, and not pasted upon, or otherwise transferred thereto.

Petitions of Corporations.

CCII. Petitions of corporations aggregate are required to be made under their common seal.

No letters, affidavits, to be attached.

CCIII. No letters, affidavits, or other documents may be attached to any petition.

Debates not to be referred to.

CCIV. No reference shall be made in a petition to any debate in Parliament, nor to any intended motion.

On the 31st March, 1848, notice was taken that in a petition reference was made "to what passed in a debate in this House, in violation of the rules and practice of the House," and the orders that such petition do lie upon the table and be printed, were read and discharged (103 C. J., 406,) and a petition relating to matters spoken by a Member in the House cannot be received. (63 H., 3rd S., 192.)

No application for public money unless recommended by the Crown.

CCV. No application shall be made by a petition for any grant of public money, or for compounding any debts due to the Crown, or for the remission of duties payable by any person, unless it be recommended by the Crown.

Petitions praying for compensation or indemnity for losses out of the public revenues, sustained by the petitioner or other persons, are received under the category of applications for grants of public money, and have been constantly refused unless recommended by the Crown (73 C. J., 157; 74 *Ib.*, 422; 87 *Ib.*, 571; 90 *Ib.*, 487; 104 *Ib.*, 223, &c.) But petitions are received which pray that provision should be made for the compensation of petitioners for losses contingent upon the passing of Bills pending in Parliament (90 C. J., 136; 92 *Ib.*, 469; and see tit. Supply and CCLXXVIII., and CCVI.) A message from the Governor having been received in respect of a money Bill, it is not necessary for a new message to be brought down in the same Sessions prior to the preliminary stages of new Bill. (V. H., Vol. XIV., p. 1032.)

Petitions.

Petitions.

CCVI. This House will not receive any petition for compounding any sum of money owing to the Crown, upon any branch of the revenue, without a certificate from the proper officer or officers annexed to the said petition stating debt, what prosecutions have been made for the recovery of such debt, and setting forth how much the petitioner and his security are able to satisfy thereof.

Petitions for compounding debts to the Crown.

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See note, preceding Order CCV.

CCVII. It is highly unwarrantable, and a breach of the privilege of this House, for any person to set the name of any other person to any petition to be presented to this House.

Forgery of signatures.

There have been frequent instances in which such irregularities have been discovered and punished by both Houses (Epworth Petition, 1843; 98 C. J., 523–8; Cheltenham Petition, 2nd March, 1846; Liverpool Corporation Waterworks Bill, 13th August, 1850; Prince Azeem Jah [J. M. Mitchell and others,] 1865; 120 C. J., 157, 336.)

CCVIII. It shall be incumbent on every Member presenting a petition to acquaint himself with the contents thereof, and to ascertain that it does not contain language disrespectful to the Assembly.

Members to peruse petitions.

See Order CCXI. and note, *infra*.

CCIX. Every Member presenting a petition to the Assembly shall affix his name at the beginning thereof.

Members to affix their names.

See note, Order CXCV.

CCX. Every Member presenting a petition shall take care that the same is in conformity with the Rules and Orders of the House.

Petitions to be in accordance with the rules of the House.

Petitions in the nature of election petitions will not be received after the time limited for receiving such petitions, or in respect to which the proper forms have not been observed ; or praying for the renewal of the determination of an Election Committee. (See cases cited, May's P. P., 6th ed., p. 512.)

Petitions to be respectful.

CCXI. Every petition shall be respectful, decorous, and temperate in its language.

See Order CCVIII., *supra*. Petitions must not contain offensive imputations upon the character or conduct of Parliament, or the Courts of Justice, or other tribunal or constituted authority (82 C. J., 589 ; 84 *Ib.*, 275 ; 76 *Ib.*, 105 ; *Ib.*, 92 ; 83 *Ib.*, 541 ; 78 *Ib.*, 431 ; 91 *Ib.*, 698.) A petition imputing corruption to the House of Commons was, on a division, not received (6 H., N. S., 1231.) A petition threatening to resist the law was not allowed to lie upon the table (87 C. J., 547.) A petition containing disrespectful language towards the other House of Parliament was withdrawn (93 *Ib.*, 236.) But a petition temperately expressed, though praying for the abolition of the House of Lords, was, after debate, ordered to lie upon the table (103 C. J., 384 ; 97 H., 3rd S., 1055.) On the 3rd May, 1867, a petition in favour of certain Fenian prisoners, expressed in certain strong but guarded language, was allowed to lie upon the table, and a motion afterwards made for discharging that order, was not supported by the House. (186 *Ib.*, 1929 ; 187 *Ib.*, 1886.)

Petitions presented by Members

CCXII. Petitions can only be presented to the House by a Member.

Petitions from Members.

CCXIII. A Member cannot present a petition from himself.

Another Member should present the petition for him. (59 H., 3rd S., 476.)

Members confined to statement of certain facts.

CCXIV. Every Member offering to present a petition to the House, not being a petition for a private Bill, or relating to a private Bill before the House, shall confine himself

# Petitions.

# Petitions.

Neither under cover of a Motion for Adjournment of the Hse: will a member be permitted to bring under discussn. the contents of a Pettn. wh: he wd be restrained by the S.O. from debating

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Petnge admission to press Gallery 11 Oct '88

to a statement of the parties from whom it comes, of the number of signatures attached to it, and of the material allegations contained in it, and to the reading of the prayer of such petition.

The above order and the next two orders (CCXV. and CCXVI.) are taken from the Standing Orders, English House of Commons, 1842, which were made in consequence of the numerous petitions which it had then become a practice to present, and many of them being of a conflicting character, protracted debates ensued thereon to the serious interruption of the legitimate business of the House. If it be desirous that the contents of a petition should be heard and fully brought under the attention of the House, the course is for the Member presenting it to require that it be read by the Clerk at the table. Under cover of a motion for the adjournment of the House a Member will not be permitted to bring under discussion the contents of a petition, which he would be restrained by the Standing Orders from debating (7th July, 1856;) but a personal explanation has been permitted, without any question being before the House, upon matters affecting a Member which have been alluded to in a petition. (48 H., 3rd S., 226; 109 *Ib.*, 235; and 7th July, 1856.)

May 9 619

CCXV. Every such petition not containing matter in breach of the privileges of this House, and which according to the rules or usual practice of this House can be received, shall be brought to the table by the direction of the Speaker, who shall not allow any debate, or any Member to speak upon, or in relation to such petition; but it may be read by the Clerk at the table, if required.

Not to be debated. But may be read by Clerk.

reading objected to 10 aug '87

See note, Order CCXIV., and following order and note.

CCXVI. In the case of such petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such petition may be brought into discussion on the presentation thereof.

Petitions complaining of grievances.

To justify debate pursuant to the above order, the grievance complained of must demand an immediate remedy (75 H., 3rd S., 894; 99 C. J., 398; 75 *Ib.*, 1264; 139 *Ib.*, 453.) Thus, petitions complaining that letters *had* been detained and opened, and praying for inquiry—Held, not urgent. But petitions complaining that letters *are* secretly detained and opened—Held, urgent as complaining of a present grievance, and not a past one, as in the preceding case, and requiring the *immediate* interposition of the authority of the House (75 H., 3rd S., 1264.) Upon motion, of which notice has been given by the Member presenting the petition, the House may, if a proper case appears on the petition, order that it be taken into consideration. In other cases in which it may be considered desirable to debate the matter of a petition, notice of motion must be given. (V. H., Vol. II., p. 301.)

Petitions against taxes.

CCXVII. Subject to the above regulation, petitions against any resolutions or Bill imposing a tax or duty for the current service of the year, can be received.

Petitions.

Petn to be heard by counsel against
Licensing bill - rec'd 19 Dec '88
& refused 20 Dec (mng)

# Bills.

Type of Bill not to be altered after Bill is circulated &c. 1 Hat. 1863 p 342

S. O. of 15 Dec 85 relates to introduction of bills dealing with municipal property &c.
also
as to public bills ruled by Mr Speaker to be Private

# CHAPTER XV.

## BILLS.

CCXVIII. Every Bill shall be ordered to be brought in upon motion made and question put, that leave be given to bring in such Bill, unless such Bill shall have been directed to be brought in by resolution of the House. Bills ordered.

Bills are divided into two classes—public and private Bills. The former, relating to matters of public policy, are introduced directly by Members of the House, while the latter are founded on the petitions of parties interested. The greater part of these proceedings apply equally to both classes of Bills; but the progress of private Bills is also governed by the Standing Rules and Orders relating to that class, approved 23rd November, 1857 (see Part "Private Bills.") Bills dealing with Public Reserves on Crown Lands, or one in which a question of public policy in dealing with reserves, *e.g.*, Carlton Gardens, is raised, cannot be considered private Bills (V. H., Vol. XI., p. 482.) As a general rule, Bills may originate in either House, but the exclusive right of the Legislative Assembly, like the House of Commons in England, to grant supplies, and to impose and appropriate all charges upon the people, renders it necessary to introduce by far the greater proportion of Bills into that House. Any Bill, however, which concerns the privileges or proceedings of either House should commence in that House to which it relates. (See Debates in the Lords, 23rd June, 1851.

CCXIX. Every Bill shall be ordered to be prepared and brought in by one or more Members named by the House. Members appointed to bring in Bills.

Before a Member can bring in a Bill he must obtain permission from the House, upon a distinct motion for that purpose (V. H.,

Vol. XII., p. 112.) Having given notice, he must move "That leave be given to bring in a Bill," and add the proper title of his proposed measure. It is usual in making this motion to explain the object of the Bill, and to give reasons for its introduction (V. H., Vol. XVI., p. 1523,) but unless the motion be opposed this is not the proper time for any lengthened debate upon its merits (*Ib.*) If the motion, usually formal, be agreed to, the Bill is ordered to be prepared and brought in by the mover and seconder, to whom other Members may (CCXX.) and are occasionally added (91 C. J. 613—632; 113 *Ib.*, 92.) Sometimes that order is discharged and other Members appointed to bring in the Bill (110 C. J., 35—48, &c.;) or by next order Members may be added to those originally ordered to prepare and bring in a Bill; but at such nomination a debate is not allowed upon the merits of the Bill itself (171 H., 3rd S., 478.) Amendments have occasionally been made to a question for leave to bring in a Bill by which its proposed title has been ordered. (70 C. J., 62; 71 *Ib.*, 430; 81 *Ib.*, 61.; 22 H. 3rd S., 900.)

The introduction of Bills is frequently founded on the report of resolutions from a Committee of the whole House in conformity with Standing Orders applicable to such Bills; sometimes the resolutions are simply reported, and, after being agreed to by the House, a Bill is ordered thereupon, to be brought in (81 C. J., 44; 86 C. J., 669;) or a Bill only upon some of the resolutions, and other Bills upon others of the resolutions. (80 *Ib.*, 471; 103 *Ib.*, 981, &c.)

Bills may be rejected, but though formerly not uncommon to do so, it is now comparatively rare (37 C. J., 444; 80 *Ib.*, 425.) There is no restriction as to the time at which motions for rejecting Bills may be made, but, if the House think fit, such rejection may be voted at any stage of the Bill.

Members added.

CCXX. Members may be added to those originally ordered to prepare and bring in a Bill.

Instructions

CCXXI. Instructions may be given to such Members to make further provision in any such Bill before the same is brought in.

Bills.

Members added in case of Mining Accidents Fund Bill
16 Oct. '84

# Bills.

Resolu may be repeated same day Ho: in Commn & bill also be then brot in 145 Hans. 1180

Resln re Licensed Public Houses Bill 1885 was reported & agreed to on 14 July '85 & bill initiated also
There was considerable discussion but the Commons practice is the same,
on 9 Sept '85 House went into Comm, repat agd to & Bill re Pharmacy initiated
on 23 Sept '85 Boilers bill in same way
+ See May 9th edn p. 539

Instructions are sometimes given to make provisions in the Bill for matters not included in the original motion and order of leave (106 C. J., 347; 107 *Ib.*, 368, &c. See Instructions to Committees, &c., Chap. XI., Order CCXXXVI.)

CCXXII. No Bill relating to religion, or the alteration of the laws concerning religion, shall be brought into this House, until the proposition shall have been first considered in a Committee of the whole House, and agreed unto by the House. Bills relating to religion.

The above order, as also the two subsequent, requires certain Bills to originate in a Committee of the whole House. And if by mistake this form has been omitted, all subsequent proceedings are vitiated, and must be commenced again. The above and next order are the same as the English, 9th April, 1772; and this latter has usually been construed as applying to religion in its spiritual relations—its doctrines, professions, and observances—but not to the temporalities or government of the Church, or other legal incidents of religion. The distinction, however, is often so nice that uniform application is not always observable in the precedents; Bills amending the laws relating to burials (79 C. J., 181; 117 *Ib.*, 99) and concerning endowed schools (115 *Ib.*, 20) have originated in Committee. Whilst the Church Temporalities Bill of 1833 was not required to originate in Committee (88 C. J., 35; and see other cases. May's P. P., p. 472, *et seq.* 7th ed.) But the Act 1870-1, to abolish State-Aid to Religionin Victoria originated in resolutions of a Committee.

CCXXIII. No Bill relating to trade, or the alteration of the laws concerning trade, shall be brought into the House, until the proposition shall have been first considered in a Committee of the whole House, and agreed unto by the House. Bills relating to trade.

The corresponding English order regarding trade, was for many years construed as extending to such Bills only as related to foreign commerce, and the import and export of commodities, and was not applied to Bills affecting particular trades, or the internal trade

of the country; but the practice of late years has reverted to the original intentions of the Standing Order. Accordingly, it has been held to apply, not only to trade generally, but also to any particular trade, if directly affected by the Bill. On this account Bills to regulate the sale of beer, bread, and of marine stores, and for the regulation of public-houses, beer-houses and refreshment-houses, have been required to originate in a Committee (106 C. J., 205, 362; 109 *Ib.*, 395; 110 *Ib.*, 420; 88 *Ib.*, 673; 103 *Ib.*, 747; 159 H., 3rd S., 724; 186 *Ib.*, 160; and other cases, May's Parliamentary Practice, 7th ed., pp. 474-5; also Permissive Liquor Sale Bill (V. H., Vol. XVI., pp. 1476—9, 1481-2,) which the Speaker, upon re-considering his previous decision (*Ib.*, p. 1475) ruled should originate in a Committee. Bills concerning harbours have since also originated in Committee (107 C. J., 105; 117 *Ib.*, 271, &c.) But Bills affecting public policy generally, such as weights and measures, or of police and public decency, such as restraint of Sunday trading, do not require a Committee (114 C. J., 235; 115 *Ib.*, 370; Sunday Trading Bills, 1833—5, 1838, 1848-9, 1851—5, 1863—8; Sale of Liquors on Sunday Bills, 1867-8.)

Grants of money.

CCXXIV. The House will not proceed upon any petition, motion, or Bill for granting any money or for releasing or compounding any sum of money owing to the Crown, except in a Committee of the whole House.

When the main object of a Bill is the grant of money, it is invariably brought in upon the resolution of a Committee in the first instance; but where it is proposed to authorise advances on the security of public works out of moneys already applicable to such purposes, no previous vote in Committee is necessary (Employment of Poor [Ireland] 16th May, 1822; Railways [Ireland] Bill Advance of £16,000,000, 1847; Drainage [Ireland,] 1863; Public Works Bill, 1863.) But when additional funds are to be provided for such advances they must first be voted in Committee (Exchequer Bills for Temporary Relief, 1817; 72 C. J., 220.) But Bills are often introduced, in which it incidentally becomes necessary to authorise the application of money to particular purposes. In order to accomplish this without any violation of the Standing Orders,

Bills.

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Bills.

the money clauses are originally inserted in the Bill in italics. A Committee of the whole House is appointed to consider the authorising of the advance of money, and on their report being made and agreed to by the House, the Committee on the Bill make provision accordingly. (Public Offices Bill, 1865; 177 H., 3rd S., 1308.)

In levying a tax, or in granting money, the House is alike strict in its proceedings; and all Bills directly imposing a State charge on the people must originate in a Committee of the whole House. A Bill to *diminish* public income or reduce a tax, unless with a view of substituting some other tax in its stead, does not come within the rule (30th June, 1857, Bill for Abatement of Official Salaries; Penny Postage Bill, 1840; Paper Duty Bill, 1860,) nor do Bills to levy local rates (151 H., 3rd S., 1519,) or imposing charges upon a particular class of persons for their own benefit (Merchant Seamen's Fund Bill, 1848, 1850.) Though the above classes of Bills under those orders are the only ones required to be originated in Committee, yet the House retains the power, and occasionally deems it advisable to initiate Bills by resolutions in Committee. (Education, 1856; Government of India, 1858; Representation of the People, 1867.)

Under the last of the above three orders (CCXXIV.) the Committee is appointed for a future day; but under the former two (CCXXII. and CCXXIII.) the House resolves itself into Committee immediately.

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CCXXV. Every Bill not prepared pursuant to the order of leave, or according to the Rules and Orders of the House, will be ordered to be withdrawn.

Bills ordered to be withdrawn.

If a Bill is not prepared in conformity with the Standing Orders, or the leave given for its introduction, or if, during the progress of a Bill, those rules have not been observed, the House will order it to be withdrawn (80 C. J., 329; 82 *Ib.*, 325, 339; 84 *Ib.*, 261; 102 *Ib.*, 832; 103 *Ib.*, 522.) Objections of that kind must, however, be taken before they are ordered to be committed; for it has not been the practice to order it to be withdrawn after order of committal, for any irregularity which can be cured while the Bill is in Committee, or on recommitment (71 H., 3rd S., 403; M.S. Precedent Book, Clerk of Petty Sessions Bill, 1858. All dates, amounts

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of salaries, tolls, rates, or other charges are printed in italics, and thus printed are considered as blanks to be filled up in Committee.

Bills presented by a Member.

CCXXVI. A Bill shall be presented by a Member.

A Bill is usually presented by the Member who has obtained leave or been ordered to bring it in. If any other Member present it it should be entered as being done "by order" (33 C. J., 255.) It may be presented on the same day and during the same sitting on which leave has been obtained to bring it in, and by the next following order the first reading shall be proposed immediately after the Bill has been presented.

First reading.

CCXXVII. The first reading of every Bill shall be proposed immediately after the same has been presented.

It must be read a first time before being printed at the expense of the State. (V. H., Vol. XIII., p. 1216.)

First reading and printing without debate.

May 9th 1852 p. 541

CCXXVIII. When any Bill shall be presented by a Member, in pursuance of an Order of this House, or shall be brought up from the Legislative Council, the questions, "That this Bill be now read a first time," and "That the Bill be printed," shall be decided without amendment or debate.

Under the above order if the House negative the first reading of the Bill, it merely determines that the Bill be not *now* read, and the question may, therefore, be repeated on a future day, as in the case of the County Elections Bill, 1852, when it was twice negatived (107 C. J., 174, 201.) After the first vote the Bill is no longer among the Orders of the Day, but notice can be given, and a motion again made, to read the Bill a first time (Votes, 7th May, 1852.) When the order for its first reading is made, it is ordered to be printed, and by next order a future day, unless by special leave, is fixed for its second reading.

Bill ordered to be read a second time.

CCXXIX. A Bill having been read a first time, shall, except by special leave of the Assembly, be ordered to be read a second time on a future day.

# Bills.

vide deb on Elect Act 1865 amend^d bill - 16 Oct '88

Bills rec^d from Leg: Co: after 11 or 10 o^c as case may be
and read 1^o. 1879 V. H. p. 119
1882 " p. 216

deb: on propriety or otherwise of explaining a bill
on questn of leave to introduce same 22 June '86
V. Parl Deb: 365-9
May 9^th ed - p: 524 & see 415

as to "urgent" bills see S.O. 257

Bills.

CCXXX. On the Order of the Day being read for the second reading of a Bill, the question shall be put, "That the Bill be now read a second time." Second reading.

The second reading of the Bill is brought under the attention of the House by the Clerk reading the Order of the Day; the execution of the order cannot be arrested by requiring the Clerk to read the whole Bill (23rd March, 1865; 178 H., 3rd S., 181.) The second reading is the most important stage through which the Bill is required to pass; for its whole principle is then at issue, and is affirmed or denied by the House. A full statement of its objects is generally made by the Member moving that it be now read a second time. When the second reading of the Bill is carried, the Clerk reads the title of the Bill *pro formâ*. A schedule to a Bill is not considered on its second reading. (V. H., Vol. XIII., p. 1230.)

CCXXXI. Amendments may be moved to such questions by leaving out "now" and inserting "three months," "six months," or any other time; or the Bill may be negatived. Amendments to question for second reading.

If the principle of the Bill be opposed, the motion that the Bill be read a second time is usually met by a counter motion, by way of amendment of the original motion, that it be read that day six months, or any other term beyond the probable duration of the Session. The same form of amendment is adopted if it is desired to postpone the second reading for a shorter time, and not with a view of defeating the Bill. If no motion be made for the second reading or other stage of the Bill, or for its postponement, it is allowed to drop, and does not appear again on the Order Book, unless another day be appointed for its consideration. Sometimes it has been read a second time by mistake or inadvertance, when the proceedings have been declared null and void, and another day has been appointed for the second reading (114 C. J., 139; 15 H., 816.) If a Bill of so peculiar a character as to justify the hearing of parties whose interests, as distinguished from the general interests of the country, are directly affected by it, the second reading of the Bill is the stage at which those parties are heard, and almost in every case by counsel. Questions of public policy can only be discussed by Members, but the rights of individuals or bodies corporate are usually represented by counsel at the Bar of the

House (Municipal Corporations Bill, Lords, 1833; Canada Government Bill, Commons, 1838; Lords' debate on Australian Colonies Bill, 10th June, 1850, 111 H., 3rd S., 943.) And counsel have also been heard at various other stages of the Bill (See General Indexes to Commons Journal, tit. Counsel. For instructions to Committees, see Chapter XI. and Order CCXXXVI. and notes thereto.

Amendments to be relevant.

CCXXXII. No other amendment may be moved to such question, unless the same be strictly relevant to the Bill.

May 9th 2d rd
prh: 526-9

But it is competent to a Member who desires to place on record any special reasons for not agreeing to the second reading or other subsequent stage of a Bill, to move amendments in the form of resolutions, such as a resolution declaring some principle adverse to or differing from the principles, policy, or provisions of the Bill (Property Tax Bill, 1842, 97 C. J., 321; Corn Importation Bill, 1842, 97 *Ib.*, 113; Representation of the People Bill, 1849, 114 *Ib.*, 125,) or expressing opinions as to any circumstance connected with its introduction or prosecution (Inhabited House Duty Bill, 1851, 106 C. J., 321; Paper Duty Repeal Bill, 8th May, 1860, 115 C. J., 229,) or otherwise opposed to its progress (Representation of the People Bill, 1866, 121 C. J., 213,) or seeking other information in relation to the Bill by Committees, Commissions, or the production of papers (cases cited May's Parliamentary Practice, 488, 7th ed.) But all such resolutions, like other amendments upon Orders of the Day, must strictly "relate to the Bill upon which the House, by its order, has resolved upon considering" (Report on Public and Private Business, 1837, p. 5 [No. 517,] 143 H., 3rd S., 643.) When such resolutions amount to no more than direct negatives of the principle of the Bill, they are objectionable forms of amendment (93 C. J., 414.) A resolution, if agreed to, does not, however, arrest the progress of the Bill, the second reading of which, as soon as the amendment has been carried, may be moved on another occasion. Instead of moving resolutions of this kind, Members generally content themselves with expressing, in public debate on the second reading, their dissent to the principles of the Bill, or where the objections to the Bill are of a more limited and peculiar character, with reserving their opposition for amendments in Committee, or as instructions to a Committee, upon the motion for committal of the Bill.

# Bills.

Bills.

CCXXXIII. A Bill having been read a second time, may be ordered to be committed to a Committee of the whole House; or, in certain cases, to a Select Committee. Bill committed.

For Committees of the whole House, and select Committees, see Chapters IX. and X., and notes thereto.

A Select Committee may often more conveniently consider the details of a Bill than a Committee of the whole House. Sometimes a Bill is referred to the same Select Committee as other Bills already committed (116 C. J., 140; 120 *Ib.*, 65, &c.,) or to Committees appointed to inquire into or consider other matters (103 *Ib.*, 929; 106 *Ib.*, 396, &c.,) or two or more Bills are referred to the same Committee (119 *Ib.*, 165; 120 *Ib.*, 65.) When it has not been determined until after the second reading and committal to commit a Bill to a Select Committee, the Orders or Order of the Day, as the case may be, for the whole House to go into Committee, is read and discharged, and the Bill is committed to a Select Committee (110 C. J., 143; 111 *Ib.*, 207, &c.;) or when the question is proposed for the House to resolve itself into Committee, an amendment may be made by leaving out all the words from "That," to the end of the question, and adding, "the Bill be committed to a Select Committee" (169 C. J., 230; 111 *Ib.*, 337; 119 *Ib.*, 99.) All relevant amendments without instruction, and amending a title, being authorised by usage, are within the powers of a Select Committee. (118 C. J., 248; 119 *Ib.*, 255.)

CCXXXIV. On the Order of the Day being read for the Committee on a Bill, Mr. Speaker puts the question, "That I do now leave the Chair," which being resolved in the affirmative, the House resolves itself into a Committee of the whole House on the Bill (see Chapter IX.;) but where the Committee has reported progress, the Speaker leaves the Chair without putting any question. Committee of the whole house on the Bill.

CCXXXV. Amendments may be moved to the question for Mr. Speaker to leave the Chair, by leaving out all the words after the word "that" in order to add the words "this House will on this day three months (or six months,) (or other time,) resolve itself into the said Committee." Amendments to the question for Mr. Speaker to leave the chair.

If attention were not paid to this form of amendment the absurdity might arise of ordering Mr. Speaker "to leave the Chair this day six months." It is not competent to move any amendment by way of addition to the question that the Speaker do now leave the Chair, as the first amendment having been negatived, no other amendment by way of addition to the previous question can be proposed which is not in some degree inconsistent with the previous determination of the House; and it has therefore never been permitted" (183 H., 3rd S., 1918; 186 *Ib.*, 1285; *Ib.*, 206, p. 1445.) As to amendments generally, see Chapter VI., Orders LXII. to LXXII. inclusive, and notes thereto; and amendments on going into Committee of Supply, see Orders CCLXXV. and CCLXXVIII. and notes thereto.

Instructions to Committee.

CCXXXVI. An instruction may be moved to the Committee on the Bill, but ought not to be moved by way of amendment.

See Chapter XI., Rules 32, 33, Order CLXX., and Rule 34.

Bills may be considered in Committee together.

CCXXXVII. Bills which may be fixed for consideration in Committee on the same day, whether in progress or otherwise, may be referred together to a Committee of the whole House, which may consider on the same day all the Bills so referred to it, without the Chairman leaving the Chair on each separate Bill: Provided that, with respect to any Bill not in progress, if any Member shall raise an objection to its consideration such Bill shall be postponed.

In the Legislative Assembly it is rare for more than one Bill at a time to be referred to a Committee of the whole, unless they relate to kindred subjects. But in the House of Commons, by reason of the multiplicity of business, that course is frequently adopted with much convenience and saving of time.

Preamble postponed.

CCXXXVIII. The Chairman shall put a question "That the preamble be postponed," which being agreed to, every

# Bills.

May 9th ed. - p. 559

Custody of Infants Bill
Marriage & Matl Causes Bill } 10 Sept 1883. p. 142

Juvenile Offenders Bill
Neglected Children Bill } 19 July 1887

Bills.

May 9th ed p. 565

May 9th ed 562

May 9th ed. 566

clause is considered by the Committee *seriatim*, without the questions for the first and second reading of the Bill being put.

CCXXXIX. Any amendment may be made to a clause, provided the same be relevant to the subject matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the Rules and Orders of the House; but if any amendment shall not be within the title of the Bill, the Committee shall extend the title accordingly, and report the same specially to the House. Amendments to clauses, &c.

After a clause has been read a second time is the time to propose an amendment (V. H., Vol. XIV., p. 1174.) The amendment having been rejected, upon the third reading of the clause is the time to move that the clause be struck out (*Ib.*, p. 1170.) See Chap. VI., tit. Amendments, Orders LXII. to LXXII. inclusive, and notes.

CCXL. A question shall be put that each "clause stand part of the Bill," or "as amended stand part of the Bill." Clause to stand part of the Bill.

It is not competent for a Member to move the omission of any clause from a Bill with a view of inserting another clause, of which notice has been given, he can only negative the question above. (145 H., p. 626.)

CCXLI. In going through a Bill, no questions shall be put for the filling up of words already printed in *italics*, and commonly called "blanks," unless exception be taken thereto; and if no alterations have been made in the words as printed in *italics*, the Bill is to be reported without amendments, unless other amendments have been made thereto. Proceedings upon blanks

CCXLII. Any clause may be postponed, unless the same have already been considered and amended. Clauses postponed.

Preamble agreed to.

CCXLIII. After every clause and schedule has been agreed to, and any clauses added which are within the title of the Bill, or pursuant to any instruction, the preamble is considered, and, if necessary, amended; and a question is put, "That this be the preamble of the Bill."

Proceedings in Committee not to be noticed until reported.

CCXLIV. No notice may be taken of any proceedings in Committee of the whole House, or a Select Committee on a Bill, until such proceedings or Bill shall have been reported.

See Order CXL. and notes thereto, and Rule 31 and notes thereto.

Bill reported.

CCXLV. The Bill having been fully considered, the Chairman is directed to report the Bill, or report the Bill with the amendments to the House.

See CXL. and CXLIII., and Rule 31, and notes thereto respectively.

Bill as amended to be considered.

CCXLVI. At the close of the proceedings of a Committee of the whole House on a Bill, the Chairman shall report the Bill forthwith to the House, and when amendments have been made thereto, the same shall be received without debate, and a time appointed for taking the same into consideration.

See CXLIV ante

When the report has been received, if no amendments have been made, the Bill may be read a third time, on the same day, or the third reading may be ordered on a future day. If amendments have been made by the Committee, the report is a formal proceeding, and the Bill, as amended, is ordered to be taken into consideration on a future day (CCXLVII.) If the title has been amended such amendment is specially reported (115 C. J., 343; 120 *Ib.*, 95, &c.) Bills, especially at the end of a Session, sometimes (CCLVII.) pass through all their stages in the one day. Where there have

# Bills.

Bills.

See Bourke pp 59·60

If one member objects to a cl: of wh: proper notice has not been given, that notice will be insuffict.

On 23rd July 1885 a clause involving an appropriation was added on 3rd R: of Pub: Buildgs Fire Pro: Bill without questn. A Message had previously come dn for another part of the Bill. Query did it also cover the approp: cl: added on 3rd R: ?

been several amendments made in Committee, it is customary, previous to their committal, to reprint the Bill; for no verbal explanation of numerous amendments can possibly make the amended Bill intelligible, and the practice is more to rely upon a reprint of the Bill than upon any proceedings in the House, on the report of very numerous and important amendments; and are, if additions, sometimes printed in the Bill in italics, or if the amendments be matter struck out, then they are printed as before in the Bill, in erased type, that the amendments so made may on the face of the Bill itself, be apparent.

CCXLVII. A Bill being reported without amendment, shall be ordered to be read a third time, at such time as may be appointed by the House.

Bill reported without amendments.

See CCLII. and CCLIII.

CCXLVIII. On a clause being offered in Committee, or on the consideration of report, or third reading of a Bill, Mr. Speaker, or the Chairman, shall desire the Member to bring up the same, whereupon it is to be read a first time without question put; but no clause is to be offered on consideration of report or third reading without notice.

Clauses offered in Committee on consideration of report and third reading.

See 254

CCXLIX. A clause containing any rates, penalties, or other blank, offered after the Bill has been reported, shall, after having been read a second time, be considered in Committee before it is made part of the Bill, and if any such clause be for increasing any burthen upon the people, the Bill shall be recommitted, and the clause proposed in Committee on the Bill.

A clause with rates, penalties, &c.

See CCLIV.

CCL. On consideration of the Bill as amended, the Bill may be ordered to be recommitted to a Committee of the whole House, or to a Select Committee.

Bills recommitted.

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See CCLII. It often becomes necessary to recommit a Bill to a Committee of the whole House, and occasionally to a Select Committee, before it is read a third time; and the recommitment of a Bill is always advisable when numerous amendments are to be proposed. At this stage the proceedings of the Committee are otherwise open to review. Thus a clause inserted in Committee by mistake has been struck out (109 C. J., 285, 239;) and where there are clauses not relevant to the subject matter of the Bill, the Bill has been recommitted in respect of those clauses (119 *Ib.*, 172.) A Bill may be recommitted: (1) Without limitation, in which case the entire Bill is again considered in Committee, and if any further amendments be made it is reported with "other" or "further" amendments. (2) On amendments being proposed on the consideration of the Bill as amended, the Bill may be recommitted with respect to those amendments only (83 C. J., 533; 94 *Ib.*, 510;) or to the clauses in which such amendments are proposed to be made and the preamble (Bank Notes Issue Bill, 1865, &c., 120 C. J., 304.) (3) On clauses and schedules being offered or intended to be proposed, the Bill may be recommitted with respect to those clauses or schedules (82 *Ib.*, 415; 108 *Ib.*, 570; 115 *Ib.*, 293; 116 *Ib.*, 121; 120 *Ib.*, 348;) in these two latter cases no other parts of the Bill are open to consideration (179 H., 3rd S., 826.) (4) The Bill may be recommitted, and an instruction given to the Committee that they have power to make some particular or additional provision (89 C. J., 127; 107 *Ib.*, 294.) If the Member who has charge of the Bill, and other Members also, desire its recommittal, the former has priority in making the motion for that purpose (Bank Notes Issue Bill, 25th May, 1865.) A Bill may be recommitted as often as the House think fit. It is not uncommon for Bills to be recommitted once or twice (83 C. J., 354; 89 *Ib.*, 286.) And there are cases in which a Bill has been six and even seven times through a Committee of the whole House (65 *Ib.*, 384, 396, 420; 69 *Ib.*, 420, 444, 460.) The proceedings on the report of a recommitted Bill are similar to those on the first report. The report is received at once, and the Bill, as amended, is ordered to be taken into consideration on a future day. Sometimes after the House has ordered a Bill to be read a third time on a future day, this order is discharged, and the Bill recommitted (110 C. J., 117; 111 *Ib.*, 208; 113 *Ib.*, 318, 339, &c.;) and, with a view to the recommitment of a Bill, amendments are occasionally moved to the question for reading a Bill a

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Bills.

# Bills.

On Thurs: 8th Oct 85 – Mr Graves asked whether Licensing Bill would be printed as amended on report so that House cd see all amendts made before the 3rd read. Attns: unusual Mr Service (Premr) said he had no objection & the Speaker sd he wd direct the reprinting so far as he had the power. p. 1377

On 12 Oct. 1885 the bill was circulated "as amended on consideration of report"

As to power read bill 3° on same day as agreeing to report 13 Nov 88 – V.P.D. 1931
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third time, that the order for the third reading be read and discharged, and that the Bill be recommitted (112 *Ib.*, 391; 118 *Ib.*, 167, 274.) Sometimes public Bills, besides being considered in a Committee of the whole House, are committed to a Select Committee (Chapter X., Select Committees.) For, notwithstanding the facilities for discussion afforded by the Committee of the whole House, the details of a Bill may often be considered more conveniently by a select Committee. A Bill can be referred to the same Select Committee as other Bills already committed (116 C. J., 146; 120 *Ib.*, 65, &c. ;) or to Committees appointed to inquire into other matters (103 *Ib.*, 929; 105 *Ib.*, 396, &c ;) or two or more Bills may be referred to the same Committee (119 *Ib.*, 165; 120 *Ib.*, 65.) When it has not been determined until after the order for the committal of a Bill to a Committee of the whole House to commit it to a Select Committee, the order for committal to a Committee of the whole House, is read and discharged, and the Bill is committed to a Select Committee (110 C. J., 143; 111 *Ib.*, 207, &c. ;) or when the question is proposed for the House to resolve itself into Committee, or for the Speaker leaving the Chair by moving an amendment, that "the Bill be referred to a Select Committee" (109 C. J., 230; 111 *Ib.*, 337.) When it is deemed advisable to take evidence, the necessary powers are given to the Committee for that purpose (104 C. J., 253; 106 *Ib.*, 164.) Relevant amendments and amending the title of a Bill without any instruction has been authorised by the usage of the House, the same as in a Committee of the whole House (118 C. J., 248; Government Annuities Bill, 119 *Ib.*, 255.) When a Bill is reported from a Select Committee it is recommitted to a Committee of the whole House (106 C. J., 393; 107 *Ib.*, 199 ;) unless it be first recommitted to the same Select Committee (97 C. J., 446; 98 *Ib.*, 487; 106 *Ib.*, 239.) If, in addition to reporting the Bill with or without amendments, the Select Committee desire to inform the House of any matters relating to the Bill, leave is obtained to make a special report (Inclosure Bill, 117 C. J., 178; Pier and Harbour Bill, 12th May, 1860; Land Drainage Bill, 28th May, 1863, &c.) Public Bills affecting particular places are so far as they relate to the place concerned generally referred to a Select Committee. (Harwich Harbour Bill, 118 C. J., 240.)

CCLI. Before any Bill shall be read a third time, the Chairman of Committees shall certify that it is

Certificate of Chairman.

in accordance with the Bill as agreed to by the Committee.

Order for third reading discharged.

CCLII. The order for the third reading of a Bill may be read and discharged, and the Bill ordered to be recommitted.

See CCL.

Third reading.

CCLIII. The Order of the Day being read for the third reading of a Bill, a question is put, that the Bill be *now* read a third time, to which amendments may be moved, as on the second reading.

See CCLVI.

On the third reading, the judgment of the House is expressed on the entire Bill as it stands, after all amendments have been introduced in Committee and at other stages. Every amendment may be proposed to the question for now reading the Bill a third time, which has already been described in reference to the second reading. Sometimes the question "that the Bill be now read a third time" has been negatived; but this vote does not, no more than on the second reading, prove fatal to the Bill. Another day can be appointed for the third reading, and as in the case of the Combination of Workmen Bill, 18th April, 1853, when that Bill having been so negatived, on the 20th, another day was appointed for the third reading; and the Bill was subsequently read a third time and passed. It can even be, with the consent of the House, renewed at a later hour of the same day, and the Bill be recommitted. (V. H., Vol. X., p. 159.)

No new clause may be added to the Bill, unless notice has been given; and it has been held that such notice must comprise the words of the clause intended to be proposed; and where a clause has been offered, differing materially from the notice, it has not been entertained (Oxford University Bill, 109 C. J., 336; 134 H., 3rd S., 694; Government of India Bill, 151 *Ib.*, 1036; Representation of the People Bill, 1867, 188 *Ib.*, 1452.) Nor can this defect of notice be supplied by an amendment being proposed to the clause by another Member, as the clause cannot be amended until it has been received and read a second time (134 H., 3rd S., 694.) New

Bills.

# Bills.

' The first time without question put S.O. 248

clauses are first offered, and must be proposed before the report of the Committee be taken into consideration (V. H., Vol. XIII., p. 10,) after which amendments may be made to the several clauses of the Bill as reported by the Committee. When a Member offers a clause on the consideration of the Bill as amended, the Member proposing it brings it up, when it is read a first time, without any question put. A question is then proposed "that it be read a second time," which is the proper time for opposing the clause; if this question be affirmed, amendments may then be proposed to the clause. Sometimes the motion for reading the clause a second time, and also the clause itself, are by leave of the House withdrawn (112 C. J., 332, 393.) The last question put by the Speaker is "that this clause, or as amended, be added or made part of the Bill." The Member who offers this clause is entitled to speak on bringing it up, and again on question that it be read a second time. Each amendment proposed to the clause can be discussed according to the usual rules of debate; and lastly, on the question that the clause (whether amended or not) be added, a further debate may arise (171 H., 3rd S., 188.) And by Order CCXLIX., a clause with rates, penalties, "or other blank, offered after the Bill has been reported, shall, after having been read a second time, be considered in Committee before it is made part of the Bill; and if any such clause be for increasing any burthen on the people, the Bill shall be recommitted, and the clause proposed in Committee on the Bill." But an amendment involving a direct charge upon the public revenue will not be put from the Chair (112 C. J., 393;) or if it has been agreed to inadvertently, it will be cancelled (County Courts Bill, 111 *Ib.*, 371.) Nor may any amendment be made which increases a tax, or repeals an existing exemption from a tax. When an amendment is proposed, by leaving out a clause of the Bill, a question is put "that such clause stand part of the Bill." (113 C. J., 285, 339.)

Clauses added, and amendments made.

CCLIV. A Bill having been read a third time, clauses may be read three times (and also committed if containing rates, &c.,) and added to the Bill, and other amendments made.

Usually all amendments and all new clauses are considered, and if passed, added to the Bill in Committee. The above order gives

additional powers to the Legislative Assembly, and differs materially from the English practice, for by Standing Order, 21st July, 1856, House of Commons, no amendments, not being merely verbal, can be made to any Bill on the third reading. If it be necessary in the English House of Commons to make amendments, the order for the third reading must be discharged, and the Bill recommitted. That course has not been followed here, unless the amendments are very numerous and important, when it would be inconvenient for the House to be occupied with their discussion; but in practice similar restrictions exist to the making of material amendments, or proposing new clauses, at this stage of the Bill, as on the third reading (see note preceding Order CCLIII.) Though by the above order new clauses may be added after the Bill has been read a third time, yet the proper time for proposing new clauses is upon reading the Order of the Day, and before the report of the Committee is taken into consideration. (H., Vol. XIII. p. 1432.)

Bill passed, and title agreed to.

CCLV. After the third reading, and further proceedings thereon, a question is put, "That this Bill do now pass;" after which the title of the Bill shall be agreed to, or amended and agreed to.

In case there is no adjournment of "the further proceedings" after the Bill has been read a third time, the next question put to the House by the Speaker is, "That this Bill do pass." This question has sometimes been carried in the negative after all the preceding stages of the Bill have been agreed to (76 C. J., 413; 80 *Ib.*, 617; 89 *Ib.*, 497; Tests Abolition Bill, 1864, 119 *Ib.*, 338;) but though amendments have been proposed and debates and divisions have occasionally taken place at that stage (Reform Bill, 1831; Ecclesiastical Titles Bill, 1851; Succession Duty Bill, 1853; Bribery Bill, 28th July, 1854; Education [Scotland] Bill, 12th July, 1855,) it is not usual to divide upon it. After the above question has been carried, the next question is, "That the title of the Bill be ——." Amendments may then be offered to the title, which are generally such as render it conformable with amendments which may have been made to the Bill since its first introduction (104 C. J., 581; 105 *Ib.*, 338.) The last question put by the Speaker is, "That the Bill be sent to the Legislative Council and their concurrence desired

Bills.

# Bills.

Money bills are never passed thro' more than one stage on the same day May 9th ed p. 681

In Leg: Ass: Lower Supply bills are invariably passed thro. all stages on one day.

(CCLIX.) Throughout all these stages and proceedings the Bill itself continues in the custody of the Clerk or other officer of the House, and no alteration is permitted to be made in it without the express authority of the House or the Committee, in the form of an amendment regularly put from the Chair, and recorded by the Clerk at the table. (See debate 3rd June, 1782, 23 Parliamentary History, 989; 3 Wraxall's Memoir, 431.)

CCLVI. The further proceeding on third reading may be adjourned to a future day.

Further proceeding on third reading adjourned.

See Order CCLIII., and notes.

See S.O. 229

CCLVII. Bills of an urgent nature may be passed with unusual expedition through their several stages.

Bills passed with unusual expedition.

May 9th ed. p. 599.

In the ordinary progress of a Bill the proceedings either follow from day to day, or some days are allowed to intervene between each stage subsequent to the first reading; yet when any pressing emergency arises, under the above rule, Bills are sometimes passed through all their stages in the same day, and even by both Houses; and in some extraordinary cases the Royal assent has been signified on the same day (Supply Bill, V. H., Vol. VI., N. S., p. 590; Bill for Recruiting Land Forces, 24 C. J., 636, 639; Seaman's Additional Pay Bill, 52 *Ib.*, 555, 557—8; Habeas Corpus Suspension Bill, 17th February, 1866, 121 *Ib.*, 88.) This unusual expedition can only be done by moving a suspension of the Standing Orders. It is nothing more than an occasional departure from the usage of Parliament, arising from the urgent necessity of the case, and must be done with the consent of the House; but the several stages are all open to discussion, as at other times. It lies with the House to say whether a Bill is urgent or not, so as to pass through all its stages in one day. (V. H., Vol. XV., p. 2349.)

CCLVIII. The precise duration of every temporary law shall be expressed in a distinct clause at the end of the Bill.

Temporary laws.

The duration of a temporary law used to be both in the title and in the clause at the end of the Bill. (Dwarris on Statutes.)

Bills sent to the Legislative Council.

CCLIX. When all the proceedings on a Bill have been concluded, the Bill shall be ordered to be carried to the Legislative Council and their concurrence desired; or when such Bill has been brought from the Legislative Council "to acquaint the Legislative Council that this House has agreed to the same without amendments," or "with amendments to which this House doth desire the concurrence of the Legislative Council."

See note, Order CCLXI.

Bills returned from the Legislative Council.

CCLX. When a Bill shall be returned from the Legislative Council with amendments, such amendments are twice read and agreed to, or agreed to with amendments, or disagreed to, or the further consideration thereof put off for three or six months, or the Bill ordered to be laid aside.

See note, next order.

Amendments of Legislative Council.

CCLXI. Amendments by the Council to public Bills shall be appointed to be considered on a future day, unless the House shall order them to be considered forthwith.

The Bill is sent up by the Clerk-Assistant, who delivers it at the bar to the Usher of the Legislative Council. Every Bill, whether amended or not, is returned to the Legislative Council, and when the Legislative Assembly disagrees with the Council in amendments made by that body, and desire a Conference, they retain the Bill until the Conference is had, as it is a rule that it is only the body in possession of the Bill who can ask for a Conference. If a Bill be carried to the other House by mistake, or if any other error be discovered, a message is sent to have the Bill returned, or the error corrected. In 1844, an amendment made by the Lords in the Merchant Seamen's Bill, was omitted from the paper returned with the Bill to the Commons, this was allowed. But after all the amendments received by the Commons had been agreed to, the Lords acquainted the Commons, at a Conference, that another amendment had been omitted, by mistake, and desired their con-

# Bills.

Bills.

currence. But the Speaker having stated that, in his opinion, it would establish a most inconvenient and dangerous precedent if they entertained the amendment, the House gave reasons, at a Conference, for not taking the amendment into consideration, and the Lords did not insist upon it (99 C. J., 637-8, 644; 76 H., 3rd S., 1994.) Whenever expedition is necessary, an order that the amendments be considered forthwith precedes the consideration of them (110 C. J., 458, 464, &c.; 135 H., 3rd S., 1411.) Whenever the amendments are of importance they are printed separately. Council's amendments in two Bills cannot be considered together (Fencing and Impounding Bills, V. H., Vol. XIII., p. 1770.) When the Order of the Day is read for considering the amendments to a Bill, a question is put, "That the amendments be now taken into consideration;" to which an amendment may be moved to leave out "now," and add "this day three months," or to leave out "now taken into consideration," and add "laid aside." But generally, the House at once proceeds to the consideration of the amendments, which, after being read a second time, are severally agreed to, or otherwise disposed of. They must be read a second time *pro formâ* before being considered in detail, or laying aside the Bill (V. H., Vol. XIII., pp. 1811, 1815, 1818.) When the Upper House has added a clause, leaving a blank for a penalty, the House has gone into Committee on the clause and filled up the blank (CCLXXIII.) If one House agree to a Bill passed by the other without any amendment, no further discussion or question can arise upon it; except upon amendments suggested by the Governor's message (Constitution Act, Sec. 36.) If a Bill be returned from one House to another with amendments, these amendments must either be agreed to by the House which had first passed the Bill, or the other House must waive their amendments, otherwise the Bill will be lost. Reasons may be stated with resolutions disagreeing with the Council's amendments on the Bill (V. H., Vol. XIII., p. 1815.) Sometimes one House agrees to the amendments, with amendments, to which the other House agrees (90 C. J., 575.) Occasionally this interchange of amendments is carried even further, and one House agrees to amendments with amendments, to which the other House agrees with amendments, to which also the first House, in its turn, agrees (111 *Ib.*, 373; 112 *Ib.*, 416; 118 *Ib.*, 381, 412.) But it is a rule, that neither House can leave out or otherwise amend anything which they have already passed themselves, unless such

amendment be immediately consequent upon amendments of the other House which have been agreed to, and are necessary for carrying them into effect (116 C. J., 415; 118 *Ib.*, 381; 120 *Ib.*, 197.) In 1678, it was stated by the Commons at a Conference, "That it is contrary to the constant method and proceedings in Parliament, to strike out anything in a Bill which hath been fully agreed to and passed by both Houses." And in allowing consequential amendments either in the body of the Bill or in the amendments, the spirit of this rule is still observed (Municipal Corporations [Ireland] Bills, 1836, 1838, and 1840, 91 C. J., 592; 93 *Ib.*, 829; 95 *Ib.*, 604; 97 *Ib.*, 577, 597, and other cases cited, Note 4, May's P. P., p. 524, 7th ed.) And so binding has it been held in England that a separate Act has been passed to cure an oversight in not making a certain amendment (Pirates' Head Money Bill, 1850.) But such a difficulty in Victorian Legislation is met by a Message from the Governor, suggesting such amendments, under the authority of Clause 36 of the Constitution Act (see also XVI. Joint Standing Orders and Rules, page 135.) In some cases the Upper House has left out clauses or words, to which amendments the Commons House disagreed; but in consequence of restoring such clauses or words, have, at the same time, proposed to amend them (Municipal Corporation Bill, 4th August, 1838, 97 C. J., 824–6; 118 *Ib.*, 365.) An amendment made by one House to an amendment made by the other, should be relevant to the same subject matter. If not consequent on or relevant to such amendment the question will not be put from the Chair (115 *Ib.*, 494.) A departure from this rule was once permitted (Bolton Police Bill, 1839,) but a special entry was made in the Journal that it was not to be drawn into a precedent; and a protest was signed by five influential peers against agreeing to it at all (71 L. J., 643.) Where an amendment made by the Lords has been agreed to, by mistake, with an amendment, the proceedings have been ordered to be null and void, and the amendment disagreed to (113 C. J., 264.) When it is determined to disagree to amendments made by the other House, (1) the Bill may be laid aside or rejected; (2) the consideration may be put off for three or six months, or to any time beyond the probable duration of the Session; (3) a message may be sent to communicate reasons for disagreeing to the amendments; or (4) a Conference may be desired with the other House. The first two modes of proceeding are only resorted to when the privileges of the House are infringed

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by the Bill, or when the ultimate agreement of the two Houses is hopeless (110 *Ib.*, 417;) the latter are preferred whenever there is a reasonable prospect of mutual agreement and compromise (as to the subject of Conferences generally, see May's P. P., p. 437, *et seq.*, 7th ed.) Generally here it may be stated that when a Bill has been returned by either House to the other with amendments which are disagreed to, a message (see Joint Standing Order, No. VII., p. 133) is sent, informing the other House of their disagreement to the amendments made by that House. If the other House insist upon the amendments, a Conference may be asked for by the House with whom the Bill remains. A Conference is usually conceded, and Committees appointed by each House to confer together, and by mutual concessions to come to an ultimate agreement. The names of the Committee are usually suggested by the Ministry, but if six Members demand a ballot the Speaker must acquiesce ; in case of a tie the Speaker decides according to alphabetical order (V. H., Vol. XIII., p. 1904.) If an agreement cannot be secured, the Bill is lost for the Session. When one House agrees to amendments made by the other, or does not insist on its own amendments, no reasons are offered, the object of reasons being to persuade the other House, and not to justify a resolution of its own (113 C. J., 332.) It will only be necessary to add what has already been observed, that (according to ancient rule, 13th March, 1575) it is irregular to demand a Conference with the House which is already in possession of the Bill (1 C. J., 114.) If amendments made by the Council are agreed to by the Assembly, the latter return the Bill, with a message signifying their agreement; but if amendments made by the Assembly are agreed to by the Council, the Bill is retained by the Council for the Governor's assent (Joint Standing Order, No. XV., p. 135,) except in the case of the Appropriation Bill, which, when it has passed both Houses, is returned to the Speaker, to be presented by him to the Governor for his assent.

Amendments proposed by Governor.

CCLXII. Whenever the Governor shall transmit by message to the Assembly any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be treated and considered in the same manner as amendments proposed by the Legislative Council.

See S.O. 261

See Clause XXXVI., Constitution Act, and Joint Standing Order XVI., p. 135; and Additional Joint Standing Orders XXI. and XXII., pp. 137-8, *infra*.

When Governor's amendments are agreed to, to be sent to Legislative Council.

CCLXIII. When the Assembly shall have agreed to any amendment proposed by the Governor, such amendment shall be forwarded to the Legislative Council for its concurrence.

See Joint Standing Order XVI., p. 135; and XXI. and XXII. Additional Joint Standing Orders, pp. 137-8, *infra*.

Bills for altering certain provisions of the Constitution Act how certified.

CCLXIV. Whenever any Bill for repealing, altering, or varying all or any of the provisions of the Constitution Act, and for substituting others in lieu thereof, shall have passed its second and third readings in the Assembly, with the concurrence of an absolute majority of the whole number of the Members of the Legislative Assembly, the Clerk or other proper Officer of the Assembly shall certify accordingly.

See Constitution Act, 19 Vic., Sections 60 and 61.

For Joint Standing Orders and Rules on Bills, see page 135, *et seq.* And Additional Joint Standing Orders and Rules, page 137, *et seq.*

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*Standing Order relating to Public Business.*

3. Whenever Mr. Speaker shall decide that a Bill which has been introduced as a Public Bill ought to have been introduced as a Private Bill, such Bill shall be dealt with as a Private Bill, unless the House expresses the opinion that it is a Public Bill, or not dissenting from Mr. Speaker's decision, shall order that all the Private Bill Standing Orders be dispensed with, in accordance with Standing Order No. 131 relating to Private Bills.

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ding Order No. 131

# Accounts, Papers, and Printing.

# CHAPTER XVI.

## ACCOUNTS, PAPERS, AND PRINTING.

CCLXV. Accounts and papers may be ordered to be laid before the House. Accounts, &c., ordered.

No documents are laid on the table of the House unless called for by the House, or presented by command of His Excellency the Governor, and no document can be presented by a member or minister that speaks in disrespectful language of the House or its members (V. H. Vol. XIV, p. 294.) The papers and correspondence sought from Government departments should be of a public and official character, and not private or confidential. A sufficient cause must be shown to exercise power for the production of papers; and if considerations of public policy can be urged against a motion for the production of papers, it is withdrawn or otherwise dealt with according to the judgment of the House. If parties neglect to make returns in reasonable time, they are ordered to make them forthwith (110 C. J., 39.) If they continue to withhold them, they are ordered to attend at the bar of the House (75 *Ib.*, 404; 89 *Ib.*, 386; 96 *Ib.*, 363;) and unless they satisfactorily explain their conduct they will be censured or punished according to the circumstances of the case (90 *Ib.*, 575; 81 L. J., 134.) A person has been reprimanded for having made a return to an order which he was not required or authorised to make, and for framing it in a form calculated to mislead the House (82 L. J., 89.) When Parliament is prorogued before a return is presented, the practice sometimes is to renew the order the ensuing Session as if no order had been previously made; but returns are more frequently presented by virtue of orders or addresses in a preceding Session without any renewal of the address (98 C. J., 428; 103 *Ib.*, 579, 775; 104 *Ib.*, 239, 284, &c.; 106 *Ib.*, 5; 108 *Ib.*, 209,) and occasionally in compliance with an order of a former Session (99 *Ib.*

301; 103 *Ib.*, 131; 104 *Ib.*, 35, 88, 133, &c.; 106 *Ib.*, 24; 108 *Ib.*, 293.) When the order for a return is found not to comprise all the particulars desired, it is usual to discharge the order and make another in a corrected form. Sometimes, however, without discharging the order, public papers or other particulars have been ordered to be added to the return (110 *Ib.*, 56, 230; 116 *Ib.*, 99; 117 *Ib.*, 337; 121 *Ib.*, 143.) If one House desires any return relating to the proceedings of the other, neither courtesy nor custom allows such a return to be ordered, but an arrangement is generally made by which the return is moved for in the other House, and after it has been presented a message is sent to request that it may be communicated. (111 *Ib.*. 250, 270, 294.)

Addresses for papers.

CCLXVI. When the Royal prerogative is concerned in any account or paper, an address shall be presented, praying that the same may be laid before the House.

Accounts and papers relating to trade, finance, and general or ocal business, are ordered directly, and are returned in obedience to the order of the House whence they were issued, but returns of matters connected with the exercise of the Royal prerogative, such as Governor's despatches, are obtained by means of addresses to the Crown. It is important to keep the distinction in view, as on the one hand it is irregular to order directly that which should be sought for by address, and, on the other, it is a compromise of the authority of Parliament to resort to the Crown for information which it can obtain by its own order. Orders so irregularly made will be discharged previous to any return having been made (92 C. J., 580, &c.; *Ib.*, 365; *Ib.*, 623, &c.) When a Minister presents papers he is at liberty to make observations on them. (V. H., Vol. X., p. 1240.)

Papers presented pursuant to statute or by command.

CCLXVII. Other papers may be presented pursuant to statute, or by command of His Excellency the Governor.

Appointment of Printing Committee.

CCLXVIII. At the commencement of each Session, a Select Committee shall be appointed to assist Mr. Speaker in all matters which relate to the printing to be executed

# Accounts, Papers, and Printing.

1 Even when papers are presented by Command a Mo:
is made that they be laid on Ta: wh: may be debated
2 When papers are laid on the Ta & ord to be printed
they are seen to be published by the press. q V.H.
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Accounts, Papers, and Printing.

by order of the House, and for the purpose of selecting and arranging for printing, returns and papers presented in pursuance of motions made by Members.

CCLXIX. When any account or paper shall be presented by a Member, he shall bring it up from the bar, on being desired by Mr. Speaker, and deliver it to the Clerk of the House.

Papers presented by Members.

Without the permission of the House no Member, not being a Minister of the Crown, is at liberty to lay any papers on the table of the House.

CCLXX. Accounts and other papers which shall be required to be laid before this House by any Act of Parliament, or by any order of the House, may be deposited in the office of the Clerk of this House, and the same will be laid on the table, and a list of such accounts and papers read by the Clerk.

Papers deposited with the Clerk of the House.

CCLXXI. Every account and paper not presented pursuant to any Act of the Legislature, shall be ordered to lie upon the table.

Accounts and papers ordered to lie on the table.

CCLXXII. Accounts and papers may be ordered to be printed whenever it is expedient.

Ordered to be printed.

# CHAPTER XVII.

## SUPPLY, AND WAYS AND MEANS.

The general resemblance between the Committee of Supply and the Committee of Ways and Means has sometimes caused a confusion in regard to the proper functions of each; but the terms of their appointment define their distinct duties. The Committee of Supply considers what specific grants of money shall be voted as supplies demanded by the Crown for the service of the current year, and explained by the Estimates prepared by the Government, and referred by the House to the Committee. The Committee of Ways and Means determines in what manner the necessary funds shall be raised to meet the grants which are voted by the Committee of Supply, and which are otherwise required for the public service. The former Committee controls the public expenditure, the latter provides the public income; the one authorises the payment of money, the other sanctions the imposition of taxes and the application of public revenue not otherwise applicable to the service of the year. The orders in the following chapter regulate the proceedings in both Committees. These orders were formed on the then existing English practice, but recently, by virtue of a Standing Order of 28th July, 1870, the practice in the English House of Commons has been altered, and that part of the practice laid down in Orders CCLXXIV., CCLXXV. and CCLXXVI., is omitted, and "directly the House has agreed to the address in answer to the Queen's speech the Committee of Supply is at once appointed for a future day" (May's P. P., 7th ed., pp. 588-9.) It may be observed that the Committee of Ways and Means, being the Committee to originate taxation, is the proper Committee to which, whenever there is an alteration in the taxation from the previous year, the Treasurer (in this colony) and the Chancellor of the Exchequer (in England) make their financial statements or open the "budget," as it is familiarly called. In this colony from the circumstance that

# Supply, and Ways and Means.

It is not necessary that there shd be a Message for the Governor to introduce a Bill of Supply 1 Vict P. D 395

Supply, and Ways and Means.

the source of taxation on successive occasions has remained undisturbed, the financial statement has frequently been made in the Committee of Supply and not in the Committee of Ways and Means. The distinction, however, between these two Committees respectively and a committee of the whole is merely artificial, originating in ancient usage, for as far as the constitution of the Members of each are concerned, unlike Special Committees, they are Committees of the whole House.

Penalties, forfeitures, and fees.

CCLXXIII. With respect to any Bill brought to this House from the Legislative Council, or returned by the Legislative Council to this House, with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, this House will not insist on its privileges in the following cases :—

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(1.) When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences ;

(2.) Where such fees are imposed in respect of benefit taken, or service rendered, under the Act, and in order to the execution of the Act, and are not made payable into the Treasury, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus ;

(3.) When such Bill shall be a private Bill for a local or personal Act.

The above order, copied from the corresponding English order (see May's P. P., p. 580, 7th ed.,) declares, with respect to a certain class of Bills, that "this House will not insist on its privileges in certain cases." The question then suggests itself, what are its privileges with respect to the class of Bills referred to. This ques-

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tion received ample consideration on two occasions, the first occasion was at a Conference in 1865, between a Committee of the Legislative Assembly (appointed to confer) and a Committee of the Legislative Council, with regard to the then Waterworks Bill. The principal topic of that Conference was, "whether the Legislative Council possess, under the Constitution, the right to alter those parts of a Bill relating to the general subjects of legislation, which refer to the imposition of a rate." This right was claimed by the Committee of the Legislative Council for that body; its existence was denied by the Committee of the Legislative Assembly. The Committee of the Legislative Assembly by their report, after "a full review of the reasons and numerous constitutional authorities," found "that that body possess a peculiar and exclusive authority to initiate and deal with Bills directly or indirectly imposing a rate, and that the passing of such Bills or of such parts of them as relate to taxation (except for the purpose of clothing them with the form of law,) forms no part of the ordinary business of legislation." (See Report printed by order of the Legislative Assembly, 22nd August, 1865.)

The second occasion, on which a full discussion took place in both Houses, was during the Sessions 1865—7, upon the kindred subject of Bills of Supply, upon the consideration of what was commonly called the Appropriation-*cum*-Tariff Bill (see V. H., during those Sessions.) On the 12th April, 1867, Select Committees of both Houses met, and by their report recommended "that inasmuch as doubts have arisen respecting the form or contents of, and practice relating to Bills, required by Section 56 of the Constitution Act to originate in the Legislative Assembly, it is expedient that the practice of the Lords and Commons respectively be observed as to such Bills; and as to all subjects of aid and supply, that each House should be guided in all matters and forms relating thereto by the precedents established by the House of Lords and Commons respectively." The report, containing the above recommendation, after a protracted debate, was adopted by the Legislative Assembly, 21st May, 1867 (V. H., Vol. IV., N. S., pp. 1036—1054,) and by the Legislative Council, 19th June following (*Ib.* 295—7; and see also Order CCLXXXV., and Introduction, p. xxiv.) And as to the progressive influence of the Commons in granting supplies and imposing burthens upon the people, the exclusion of the Lords from the right of amending money Bills, and the Constitutional functions

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of the Crown and of the Commons in matters of Supply. (See May's P. P., Chap. XXI., p. 568, *et seq.*, 7th ed.)

CCLXXIV. On the House proceeding to take into consideration the Address, the Speaker shall leave the Chair, and the House shall resolve that it will to-morrow, or on a future day, resolve itself into a Committee to consider that motion.

Governor's speech considered.

~~333~~. This House will, in future, appoint the Committees of Supply and Ways and Means at the commencement of every Session, so soon as an Address has been agreed to in answer to His Excellency the Governor's speech.

Order CCLXXIV. and the four subsequent, regulate the proceedings of Committees of Supply. In 1812, it was ruled by Mr. Speaker Abbot, that no amendment could be made to the motion "That a Supply be granted to His Majesty" (21 H., 114. The Speaker refused to allow any debate, stating that the consideration of the motion and the debate could not be presently entered upon, but would be appointed for the next day (21 H., 114.) The same rule was enforced in 1863 and 1867 (169 H., 3rd S., 193.) Questions, however, have been allowed to be put and observations offered (165 H., 3rd S., 122; 173 *Ib.*, 219.) On the day appointed for the Committee, the question for the Speaker leaving the Chair is open to debate and amendment (169 H., 3rd S., 226; 177 *Ib.*, 140, and see note to Order CCLXXV. *post.*) The annual expenditure divides itself into two classes, viz., annual grants and those secured by various Acts of Parliament, and called special appropriations. For these latter charges the Commons had provided in the first instance, before the passing of the Acts by which they are secured; but such payments no longer require the annual sanction of Parliament, as permanent statutes now authorise the application of the public income, to the discharge of its legal liabilities. But, for the expenditure not secured by statute, the Commons provide annually by specific grants, which authorise the payment of distinct sums of money, for particular services, as explained by estimates laid before them, upon the responsibility of the Ministers of the Crown. When these estimates have been presented, printed, and circulated amongst the Members, the sittings of the Committee of Supply begin, the Speaker having been moved from the Chair, and the Chairman of Committees having taken the Chair (at the table.) Each

of the Crown and of the Commons in matters of Supply. (See May's P. P., Chap. XXI., p. 568, *et seq.*, 7th ed.)

Governor's speech considered.

CCLXXIV. On the House proceeding to take into consideration the Governor's speech, according to Order, so much of the same as was addressed to the Legislative Assembly shall be again read by Mr. Speaker and a motion being made, "That a Supply be granted to Her Majesty," the House shall resolve that it will to-morrow, or on a future day, resolve itself into a Committee to consider that motion.

Order CCLXXIV. and the four subsequent, regulate the proceedings of Committees of Supply. In 1812, it was ruled by Mr. Speaker Abbot, that no amendment could be made to the motion "That a Supply be granted to His Majesty" (21 H., 114. The Speaker refused to allow any debate, stating that the consideration of the motion and the debate could not be presently entered upon, but would be appointed for the next day (21 H., 114.) The same rule was enforced in 1863 and 1867 (169 H., 3rd S., 193.) Questions, however, have been allowed to be put and observations offered (165 H., 3rd S., 122; 173 *Ib.*, 219.) On the day appointed for the Committee, the question for the Speaker leaving the Chair is open to debate and amendment (169 H., 3rd S., 226; 177 *Ib.*, 140, and see note to Order CCLXXV. *post.*) The annual expenditure divides itself into two classes, viz., annual grants and those secured by various Acts of Parliament, and called special appropriations. For these latter charges the Commons had provided in the first instance, before the passing of the Acts by which they are secured; but such payments no longer require the annual sanction of Parliament, as permanent statutes now authorise the application of the public income, to the discharge of its legal liabilities. But, for the expenditure not secured by statute, the Commons provide annually by specific grants, which authorise the payment of distinct sums of money, for particular services, as explained by estimates laid before them, upon the responsibility of the Ministers of the Crown. When these estimates have been presented, printed, and circulated amongst the Members, the sittings of the Committee of Supply begin, the Speaker having been moved from the Chair, and the Chairman of Committees having taken the Chair (at the table.) Each

grant in succession is then proposed, which is put from the Chair in these words, "That a sum not exceeding £ be granted to Her Majesty" for the object specified in the estimate.

Committee on motion for Supply.

CCLXXV. The Order of the Day being read for the House to resolve itself into a Committee to consider the motion "That a supply be granted to Her Majesty," His Excellency's speech to both Houses of Parliament shall be ordered to be referred to the Committee. Then the House shall resolve itself into the Committee, and, the Governor's speech being read, the Committee shall resolve that a Supply be granted to Her Majesty, which resolution shall be ordered to be reported.

See preceding order and note. The proper time to ask for explanation of a statement respecting a vote, is when the vote referred to is being dealt with in Committee of Supply (V. H. Vol. XI., p. 251.) On the motion for the Speaker to leave the Chair to go into Committee of Supply an amendment may be proposed that the House resolve itself into a Committee of the whole to present an address for a specific sum (V. H., Vol. XV., p. 1904,) and see CCXXXV. and note thereto, as to amendments to question for Mr. Speaker to leave the Chair; but as to superseding question see Order L., N. 1.

Report from Committee.

CCLXXVI. Mr. Speaker shall resume the Chair, and the Chairman will report that the Committee had come to a resolution, and the report shall be ordered to be received on a future day.

Supply granted.

CCLXXVII. The said resolution on being reported shall be read, and, being read a second time, the House resolves, "That this House doth agree with the Committee that a Supply be granted to Her Majesty; and, that this House will, upon a future day, resolve itself into a Committee to consider the Supply granted to Her Majesty;" which Committee is the Committee of Supply.

See CCLXXIV. and note.

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# Supply, and Ways and Means.

CCLXXVIII. The Order of the Day being read for the Committee of Supply, accounts and estimates are referred, and the House resolves itself into the Committee, and the Committee proceeds to consider the matters to them referred. Committee of Supply.

Upon the Order of the Day being read is the proper time to bring forward any alleged grievance without notice (V. H. Vol. VI., pp. 740—2.) The ancient constitutional doctrine that the redress of grievances is to be considered before the granting of supplies, is now represented by the practice of permitting every description of amendment to be moved on the question for the Speaker leaving the Chair before going into a Committee of Supply or Ways and Means. Upon other Orders of the Day such amendments must be relevant; but here they are permitted to relate to every question upon which any Member may be desirous to offer a motion. Where notices have been given of several amendments, if the first amendment be negatived by the House affirming that the words proposed to be left out stand part of the question, no other can be moved (see several illustrations of the rule, May's P. P., p. 593, 7th ed.) But a Member may not discuss any previous or intended votes of supply or items in the estimates (164 H., 3rd S., 1498; 165 *Ib.*, 639; 173 *Ib.*, 903; 189 *Ib.*, 857,) nor any resolution to be proposed in the Committee of Ways and Means (174 H., 1439,) nor any other Order of the Day or motion, of which notice has been given (142 H., 3rd S., 1026; 146 *Ib.*, 1699.) And as to amendments generally, see Chap. VI., tit. Amendments. A Committee of Supply has a right to consider a Governor's message transmitting substituted message for estimates, as these estimates are placed before the House in the same manner as any other estimates. (V. H., Vol. X., p. 920, and see note to Order CCLXXIV.)

CCLXXIX. 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 presently 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 thereon. Motion for any public aid or charge upon the people.

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The principle of waiting for the suggestion and authority for the voting of public money is not confined to annual grants. By the Standing Order already commented on (CCV.,) "No application shall be made by a petition for any grant of public money, or for compounding any debts due to the Crown, or for the remission of duties, payable by any person, unless it be recommended by the Crown," and the practice of the House has extended this order to all motions for a similar purpose. The House has further guarded itself against improvident grants or remission of debts, by Order CCVI., which declares that "this House will not receive any petition for compounding any sum of money owing to the Crown, upon any branch of the revenue, without a certificate from the proper officer or officers, annexed to said petition, stating the debt, what prosecutions have been made for the recovery of such debt, and setting forth how much the petitioner and his security are able to satisfy; and Order CCLXXIX. directs that no debate on any motion for any public aid or charge on the people shall be immediately entered on, but must be postponed to some future day; and then it shall be referred to a Committee of the whole House, before any absolute resolutions or votes pass thereon. Mere abstract resolutions which do not bind the House to pass the grant, but are merely expressive of an opinion, do not come within the rules; even these are discouraged as much as possible.

Report from Committees of Supply and Ways and Means.

CCLXXX. Any report of resolutions from the Committees of Supply and Ways and Means, shall be ordered to be received on a future day.

Leave to sit again.

CCLXXXI. The Chairman shall acquaint the House that he was directed to move that the Committee may have leave to sit again; and the House will appoint a day accordingly.

Committee of Ways and Means appointed.

CCLXXXII. When the first resolutions of the Committee of Supply have been read a second time and agreed to it is resolved, "That this House will on a future day resolve itself into a Committee to consider of Ways and

# Supply, and Ways and Means.

1 Resln rejd the same day as agreed to in Commee of W & M 'without urgent occasion' - proved so declared null & void & resoln ordd to be repealed on a future day

115 C.J. 240 158 Hans. 1208 / 1212 1161-9

May 9th ed. p. 442, 681.

# Supply, and Ways and Means.

No private M. can ask Comm. of W & M. to authorize a new tax. He may move a substitution for some proposal of the Govt. for about the same amt. 26 V.P.D. 553

Means for raising the Supply granted to Her Majesty," which Committee is the Committee of Ways and Means.

The Committee of Ways and Means is a permanent Committee and sits all the year round. If omitted from the Notice Paper the House would be in difficulties at once (V. H. Vol. XIV, p. 1341.) If a single item of the tariff has been dealt with in a Committee of Ways and Means progress should be reported after debate had concluded, in order to take the first proposition with respect to the tariff in the Committee of the whole House. It would not be fair to take the decision of the Committee of Ways and Means on an item to which there was no objection on the general policy (V. H., Vol. I., p. 472.) No money in excess of the sum previously voted in Committee of Supply can be provided in Committee of Ways and Means. (V. H., Vol. X., p. 159.)

see May p. 9th ed. 674

CCLXXXIII. Resolutions of the Committees of Supply, and Ways and Means, reported to the House, are read a first and second time, and agreed to; or may be amended, postponed, recommitted, or disagreed to.

Manner in which resolutions are dealt with.

Any amendment, relevant to the subject matter, may be proposed to the question for reading resolutions a second time (174 H., 3rd S., 1851;) but after they have been read a second time an amendment to a resolution of the Committee of Supply must relate to the amount or destination of the vote agreed to by the Committee (112 C. J., 227; 113 *Ib.*, 306; 114 *Ib.*, 72; 118 *Ib.*, 239.) If it be proposed to amend a resolution on the report, the amendment can only affect the amount of the proposed burthen. If it be proposed to increase it the resolution should be recommitted (31 C. J., 76; 3 Hatsell, 179; see next order.) Until proposals have been made and passed in Committee, and reported to the House, the House cannot take any notice of them. A motion to the House proposing an amendment on an item not submitted to a Committee is not in order. (V. H., Vol. XII., p. 472.)

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CCLXXXIV. No amendment, whereby the charge upon the people will be increased, may be made to any such

Tax not to be increased on report.

ie. on report

resolution, unless such charge so increased shall not exceed the charge already existing by virtue of any Act of Parliament.

See note to preceding order. To correct casual omissions in Customs' Duties Bill, the Bill must be recommitted, as an amendment on a report cannot be made which would involve new taxation (V. H., Vol. XIII., p. 1485.) To strike out items from a list of exemptions in the tariff would be to impose a duty by the House, which the Committee had not done. The proper course is to recommit the resolutions. (V. H., Vol. XII., p. 908.)

Resort to be had in cases for which no provision is made by these Rules to the practice of the House of Commons.

CCLXXXV. That in all cases not herein provided for, resort shall be had to the Rules, Forms, Usages, and Practice of the Commons House of Parliament of Great Britain and Ireland, which shall be followed so far as the same may be applicable to this Assembly, and not inconsistent with the foregoing Rules.

See Order CCLXXIII. and note thereto.

Supply, and Ways and Means.

May 8th ed pp 632, 635
9th ed 683

Barton v. Taylor 1886
L. R. 11 App. C. 197

Precedents – The House ought not to be slavishly bound by – Sir R. Peel 77 Hans: 455.

Reporting Evidence.

# REPORTING EVIDENCE

TAKEN BEFORE

*"The Committee of Elections and Qualifications."*

(APPROVED 9TH NOVEMBER, 1857.)

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CCLXXXVI. That the parties, in cases of contested election petitions, ought to pay expenses of reporting in shorthand the Minutes of Evidence taken before "The Committee of Elections and Qualifications."

Expenses of reporting in shorthand to be paid by parties.

CCLXXXVII. That these expenses be paid to the Clerk of Assembly by the parties producing the witness in each case, upon the evidence being delivered to the Committee, and that such expenses be paid by him into the Treasury.

Such expenses to be paid to Clerk of Assembly and by him into the Treasury.

# APPROPRIATION BILL.

(Approved 4th November, 1858.)

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When the supplies for the service of the year have all been granted the Committee of Supply discontinues its sittings; but care must be taken not to close the Committee until all the necessary notes have been taken, for if designedly closed it can only be regularly re-opened by a demand for further supplies from the Crown by messsage or the communication of additional estimates (3 Hat., 168, *et seq.*) When the Committee of Supply is closed the financial arrangements are yet to be completed by votes in the Committee of Ways and Means. The Committee authorises the application of money from the Consolidated Revenue and the surplus of Ways and Means to meet the several grants and services of the year, and a Bill is ordered to carry its resolutions into effect. This is generally known as the Appropriation Bill. As ordered this Bill applies a sum out of the Consolidated Revenue and appropriates the supplies granted during the Session. It enumerates every grant that has been made during the whole Session, and authorises the several sums as voted by the Committee of Supply to be issued and applied to each separate service. It is also made to correspond item for item with the yearly statement of the Treasurer's expenditure, and must be printed in the same manner and under the same divisions and subdivisions that shall have been employed in framing the estimates.

To effect this object Order CCLXXXIX. directs that the several votes printed (as directed by Order CCLXXXVIII.) shall be appended to such Act in the form of a schedule in lieu of the details hitherto inserted in the body of such Act (see the next two Orders;) variance, therefore, is thereby avoided.

# Appropriation Bill.

Appropriation Bill.

CCLXXXVIII. In framing the Annual Estimates of Expenditure, the several divisions thereof shall be expressly stated therein, and when they shall have passed through the Committee of Supply, and the resolutions of such Committee shall have been reported to and adopted by the House, the several votes so reported and adopted, shall be printed in the same manner and under the same divisions, subdivisions, and items of subdivision, that shall have been employed in framing the said estimates.

Divisions of Estimates to be expressly stated therein.

See Chapter XVII. Supply and Ways and Means, p. 120, and see debate on interim Supply, or Ways and Means Bill. (V. H., Vol. XIII., pp. 1069 to 1075, and note to next order.

CCLXXXIX. In order that the Treasurer's yearly statement of expenditure may correspond, item for item, with the *Appropriation Act*, the several votes so printed shall be appended to such Act, in the form of a schedule, in lieu of the details hitherto inserted in the body of such Act.

Appropriation Bill to correspond with estimates.

The free-gift preamble is confined entirely to Bills initiated in Committee of Ways and Means. (V. H., Vol. XIII., p. 1483.)

The Standing Orders CCLXXXVIII. and CCLXXXIX. do not appear to include interim Supply Bills, which probably were not contemplated when those Standing Orders were framed (V. H., Vol. XIII., p. 1072.) An Act can not be amended by an Appropriation Bill (V. H., Vol. X., p. 920.) It is not usual to pass more than one Appropriation Bill for the same year (V. H., Vol. XI., p. 100; *Ib.*, p. 232.) But it is a question for the House to decide will it vote supplies for six months only (V. H., *Ib.*, p. 232.) A message from the Crown is not necessary to introduce an Appropriation Bill, but is for a Supply Bill. (V. H., *Ib.*, p. 395.) ?

# *JOINT*

# STANDING ORDERS AND RULES

OF THE

## Legislative Council and Legislative Assembly.

(APPROVED 3RD AUGUST, 1857.)

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## I.

## MESSAGES.

Communications to be by message.

I. All communications between the Council and Assembly shall be by message.

See Order CLXXVIII. and Chapter XII. tit. Messages, p. 82, *et seq.*, Orders CXC., CXCI., CXCII., and next six Joint Standing Orders.

To be transmitted by Clerk-Assistant unless otherwise ordered.

II. Messages from one House to the other shall be in writing, and shall be communicated by the Clerk-Assistant of each House respectively, unless the House transmitting the message shall otherwise direct.

Members carrying message how announced.

III. Members carrying any message from either House of the Legislature to the other shall be announced at once, unless any Member shall be addressing the House, or unless the President or Speaker, as the case may be, shall be ascertaining the sense of the House upon any question, in which case the bearer of the message shall not be announced

# Messages.

Messages.

until the Member shall have concluded his speech, or until the sense of the House shall have been declared by the President or Speaker as the case may be; and the bearer of the message shall be introduced by the Usher or Serjeant-at-Arms, and shall deliver the message to the President or Speaker.

Messages carried by Clerk-Assistant delivered to Usher or Serjeant-at-Arms.

IV. Messages carried by the Clerk-Assistant of either House shall be delivered to the Usher or Serjeant-at-Arms, as the case may be.

Consent desired to Bills, Votes, and Resolutions how communicated.

V. Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall be desired, shall be communicated to such other House by message; and, in the first instance, without any reason being assigned for the passing such Bill, Vote, or Resolution.

Same course when returned.

VI. Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall have been desired, shall, if returned from such other House, be sent by message; and, in the first instance, without any reason being assigned for passing, declining to assent to, or amending, as the case may be, such Bills, Votes, or Resolutions.

Amendments insisted upon and communications desired, reasons to be stated in message.

VII. When either House of the Legislature shall not agree to any amendment made by the other House in any Bill, Vote, or other Resolution, with which its concurrence shall have been desired, or when either House shall insist upon any amendment previously proposed by such House, and any communication shall be desired, then the communication shall be by message, and the House transmitting such message shall at the same time transmit written reasons for not agreeing to the amendment proposed by the

other House, or for insisting upon any amendment previously proposed by the House sending such message.

See Chapter XV., Bills, Order CCLXI., note.

Joint Committees.

VIII. The number of Members of each House appointed to serve on any Joint Committee shall be equal, and the Chairman thereof shall have a vote, but not a casting vote.

Number of Members on Joint Committees: Library.

Refreshment Rooms and Parliament Buildings.

IX. At the commencement of each Session there shall be appointed by each House a Committee of five Members respectively to constitute a Joint Committee to manage the Library; another Committee of five Members of each House respectively to constitute a Joint Committee for the management of the Refreshment Rooms; another Committee of five Members of each House respectively to constitute a Joint Committee for the management and superintendence of the Parliament Buildings; and five Members shall form a quorum of each of the said Committees.

Proposal for Joint Committees to state object, number, the time and place of meeting.

X. Every proposal for a Joint Committee not provided for in these Rules shall be by message; shall state the object of such Committee, the number of Members to serve thereon, not less than ten or more than fifteen; and the number of Members to form a quorum thereof; and the House, whose concurrence shall be desired, shall name the time and place of meeting.

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## II.

## BILLS.

Bills to be fair printed as certified.

XI. Every Bill shall be printed fair immediately after it shall have been passed in the House in which it originated; and the Clerk of the House in which the Bill

Joint Standing Orders and Rules (Bills).

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'86 p. 67

Bills.

shall have passed shall certify the passing thereof on such fair print together with day upon which the Bill did pass.

As to Bills generally see Chapter XV., p. 93.

XII. If any amendment shall be made by the House to which the Bill shall be sent, such amendment shall be written on paper and attached to the Bill, and reference shall be made to the section and line of the Bill where the words are to be inserted or omitted, as the case may be, and such amendment shall be certified by the Clerk of the House in which it shall have passed.

Amendments to be written on paper, attached to the Bill and certified by Clerk.

XIII. When such Bill shall have passed both Houses of the Legislature, it shall be fair printed by the Government Printer, who shall furnish three fair prints thereof on vellum to the Clerk of the Parliaments.

When Bill passed, Government Printer to furnish three copies on vellum to Clerk of Parliaments.

XIV. Such three fair prints of each Bill shall be duly authenticated by the Clerk of the Parliaments.

Such Bills to be authenticated by him.

XV. The three fair prints of all Bills, except the Appropriation Bill, when passed, shall be presented to the Governor for Her Majesty's assent by the Clerk of the Parliaments.

Clerk of Parliaments to present all Bills except the Appropriation Bill to the Governor.

XVI. In case of amendments to Bills, made upon a message from the Governor, pursuant to the 36th clause of the Constitution Statute, after such Bills shall have passed the two Houses of Parliament, the Clerk of the Parliaments shall endorse the same on the original Bill and shall order three fair prints of the Bill on vellum as amended, and shall authenticate the same before they are presented for Her Majesty's assent.

Procedure on Bills returned by Governor with amendments.

See Chapter XV., Orders CCLXII. and CCLXIII., and Additional Joint Standing Orders XXI. and XXII., p. 137; also Constitution Act, Sec. 36.

Disposal of original Bills.

XVII. When the Governor shall have assented in the name of Her Majesty to any Bill, one of the fair prints thereof on vellum shall be deposited by the Clerk of the Parliaments with the Registrar of the Supreme Court, another shall be delivered to the Private Secretary of His Excellency the Governor, for transmission to Her Majesty's Principal Secretary of State for the Colonies, and the third shall be retained in the record office of the Parliament Houses.

Title of Bill to set forth general object.

XVIII. The title of every Bill shall succinctly set forth the general object thereof.

Numbering of Acts.

XIX. Every Act of the Legislature, commencing No. 1, from the 1st January, 1857, shall be numbered in regular arithmetical series, in the order in which the same shall be assented to by the Governor.

Clerk-Assistant to perform duties in absence of Clerk of Parliaments.

XX. In case of unavoidable absence or illness of the Clerk of the Parliaments, the duties imposed upon him by these Rules shall be performed by the Clerk-Assistant of the Legislative Council.

Joint Standing Orders and Rules.

Additional Joint Standing Orders + Rules.

| | | |
|---|---|---|
| 23rd May '64 | clerical errors in | Industrial + Bill |
| 11 May '65 | " | Vol 1 V+P. 273 |
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| 17 Dec '85 | | Appr Bill |

*ADDITIONAL JOINT.*

# STANDING ORDERS AND RULES

OF THE

## Legislative Council and Legislative Assembly.

(APPROVED 9TH NOVEMBER, 1857.)

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### CORRECTION OF ERRORS IN BILLS.

XXI. Upon the discovery of any clerical errors in any Bills which shall have passed both Houses of Parliament, and before the same be presented to the Governor for the Royal Assent, the Clerk of the Parliaments shall report the same to the House in which the Bill originated, which House may deal with the same as with other amendments.

Clerical errors in Bills to be reported to House in which Bill originated by Clerk of Parliaments

The above Additional Joint Standing Order deals with "clerical" errors; the next following Additional Joint Standing Order deals with "literal typographical" errors. The distinction is important: thus, the omission of the word "not," converting the enactment into *affirmatory* instead of *prohibitory* legislation, would be an illustration of the former. Erroneous spelling is an illustration of the latter class of errors, and which manifestly could not affect legislation. The next following Additional Joint Standing Order therefore empowers the Clerk of the Parliaments to correct them; whilst

clerical errors, the correction of which would materially alter the apparent intention of the Legislature, the Clerk of the Parliaments must report to the House, and the House itself will then deal with the error under the power conferred by the above Additional Joint Standing Order.

Clerk of Parliaments to correct typographical errors in Bills passed.

XXII. The Clerk of the Parliaments shall be empowered to correct literal typographical errors in Bills that have passed the two Houses of Parliament.

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(APPROVED 19TH NOVEMBER, 1857.)

QUORUM OF LIBRARY COMMITTEE.

Joint Standing Order No. XI. repealed.

XXIII. So much of the Joint Standing Order, No. IX., as requires that five Members shall be present to form a quorum of the Library Committee be repealed, and that three Members thereof do henceforth form a quorum.

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(APPROVED 9TH FEBRUARY, 1858.)

NUMBERING OF ACTS OF PARLIAMENT.

Numbering of Acts.

XXIV. Any Act which shall, as a Bill, have been passed by both Houses of Parliament, but reserved by the Governor for the signification of Her Majesty's pleasure, and shall afterwards receive the Royal Assent, shall be numbered

Additional Joint Standing Orders, &c.

Additional Joint Standing Orders &c.

with the number next in arithmetical progression to the number already given to the last Act assented to by the Governor.

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(APPROVED 4TH JUNE, 1858.)

QUORUM OF REFRESHMENT ROOMS COMMITTEE.

XXV. That so much of the Joint Standing Order, No. IX., as requires that five Members shall be present to form a quorum of the Refreshment Rooms Committee be repealed, and that three Members thereof do henceforth form a quorum. Joint Standing Order No. IX. repealed.

*Approved 24th October*, 1882.

[J.O. 26.] In any Joint Standing Rules and Orders of the Legislative Council and Legislative Assembly, the words "in writing" or "written" shall be deemed to mean and include "either written or printed or partly written and partly printed." Interpretation of words "in writing" or "written."

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