

reported upon by them, and their reports are then referred, with the petitions to which they relate, to the appropriate committees, who consider and report thereon, in the usual manner. Petitions are also sometimes referred to the president of the United States;¹ but this reference apparently takes place, not that such petitions may be reported upon, but because they belong more properly to his cognizance; as for example, where a number of citizens presented a memorial to congress praying a remission of the punishment inflicted on William L. Mackenzie for a violation of the neutrality laws of the United States.²

CHAPTER SEVENTH.

OF PETITIONS.

SECTION I. OF THE RIGHT OF PETITION.

1068. It is chiefly by means of petitions, that the people, in their character of constituents, are brought into communication with the two houses of parliament, and especially with the house of commons, as their representatives. So far as the legislative body is elective, so far the constituents, by their votes for particular candidates, express their opinion of public measures and policy. In certain cases, also, and to a certain extent, and for particular purposes, they have the power to instruct their representatives. But neither of these modes of communication is adequate to all the occasions, on which it is desirable that the wishes of constituents should be made known to their representatives. Petitions alone enable constituents to resort to the representative body, whenever, in the judgment of any one or more of them, it is necessary or proper to do so, with reference to any matter either of a public or private nature, which is within the jurisdiction and functions of the legislature.

1069. A petition is an instrument in writing, addressed by one or more individuals to some public tribunal or authority, in which,

¹ J. of H. V. 560; Cong. Globe, VIII. 292.

² Cong. Globe, VIII. 292.

on the ground of certain facts therein set forth, the petitioners request the official interference of such tribunal or authority, either for the particular advantage of the petitioners, or for the correction of some public grievance.

1070. When the object of a petition is the particular benefit of the petitioner, it is a private petition; when it is for the redress of some public grievance, in which the petitioner has no particular or individual concern, the petition is a public one.

1071. In both cases, a petition may emanate from a single individual; or it may be the act of as many persons as have a common interest in the subject, and are willing to unite together for the purpose of prosecuting it; or there may be as many separate petitions relating to the same subject, as there are individuals; or there may be several similar petitions, each signed by several persons.

1072. The right of subjects to petition their rulers for a redress of grievances, either public or private, is acknowledged as a fundamental principle of the English constitution, and has been uninterruptedly exercised from the earliest periods. The right to address the two houses of parliament in this manner is coeval with their existence; but especially have petitioners applied themselves to the house of commons, who, as the more immediate representatives of the people, have always, in the forcible language of Mr. Speaker Abbott, "opened their doors wide for receiving the petitions of all his majesty's subjects, with respect to grievances, whether real or imaginary."¹ This right rests on no written charter, like that of petitioning the crown; but, as was said by Mr. Fox, "No man could question the subjects' right to present petitions to their representatives; because, it was idle to suppose, that when a stipulation had been made by the bill of rights that the subjects should, in all cases, have a right to petition the crown, they had not an equal right to petition the house of commons, their own representatives."² The right of petition is stated in the following terms by Mr. Hatsell:— "To receive, and hear, and consider the petitions of their fellow-subjects, when presented decently and containing no matter intentionally offensive to the house, is a duty incumbent on them, antecedent to all rules and orders that may have been instituted for their own convenience. Justice and the laws of their country demand it from them."³

¹ Hans. (1), VIII. 529.

² Parl. Reg. XXIII. 113.

³ Hatsell, III. 240. As to the right of petition, in general, see also the speech of the Hon.

Robert C. Winthrop, in the house of representatives of the United States on the 23d and 24th January, 1844.

1073. There can be no doubt, that, in this country, the right of petition is as sacred, and as well established, as it is in England, even where it is not secured by constitutional provisions. But in all the American constitutions, except those of the States of Virginia, North Carolina, South Carolina, Georgia, and Louisiana, it is secured in the amplest manner, usually in the following terms contained in the constitution of Florida, namely:—"The people have a right, in a peaceable manner, to assemble together to consult for the common good; and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance."

1074. It is with respect to measures of a public character, that the right of petition has been deemed the most sacred, and has been guarded with the most care; as it is by this means only that constituents can express their opinions upon great national questions, and bring their opinions to bear directly upon the legislative power. Petitions of this description do not rest upon the testimony of witnesses for their facts; nor do they trust to the ability and eloquence of counsel for their arguments and illustrations. They are simply to be regarded as expressing the deliberate convictions of the petitioners, upon facts which are notorious or accessible to all, and founded in arguments and considerations which appeal to the reason and judgment of all.

1075. The legitimate effect, therefore, of their representations, depends upon two considerations, namely, the influence which popular opinion is entitled to have upon the acts of government, and upon the facts and arguments which petitioners bring forward in support of their opinions. These are interesting topics of inquiry, which, however, it would be out of place to consider in this treatise, any further than may be necessary to determine what proceedings ought to take place with reference to public petitions, in order that they may have their proper effect.¹ So far, then, as the first ground is concerned, it is important to know the number, the character, and the situation and circumstances of the petitioners; the degree of deliberation with which their opinions have been formed; the ability which they possess for judging of the subject; the means that have been resorted to for obtaining their signatures; the freedom or constraint with which they may have acted; and to have regard,

¹ Assuming that the object of government is the good of the people, it might be said, not less truly than paradoxically, that the more *popular* the character of the government, the

less influence the popular opinion, as distinguished from the government, ought to have upon the representatives, and *vice versa*.

also, to the nature of the subject, as being one upon which discussion by an intelligent and conscientious body of representatives can throw much or little light. In regard to the second ground, — the facts and arguments adduced by petitioners, — they are of equal weight, and are consequently entitled to equal influence, whether the petitioners be few or many, and whatever may be their condition or circumstances.

1076. If the views above expressed are correct, it is manifest, that the right of petition on the part of constituents requires nothing more, as a matter of parliamentary duty, on the part of representatives, than that they should receive all proper petitions, and should allow the contents to be brought to their knowledge, in the fullest manner. If any thing further than this is demanded, — if it is urged, that the voice of the people, as expressed in their petitions, ought to prevail, and that the legislature ought to do whatever it is required by numerous bodies of petitioners to do, — then the deliberative faculty of the legislative body must necessarily be destroyed; for its duty would be to attend to the demands of the people, not for the purpose of weighing and considering them, but for that of granting them without any consideration or deliberation at all.¹ What effect the petitions of the people ought to have upon the deliberations and conduct of their representatives, is a question which does not belong to the subject of this treatise.

1077. It is only in the character of petitioners, that constituents are in strictness entitled to offer their opinions and views regarding public measures to their representatives. In a *petition*, the statements of the petitioners are received as the ground of the prayer which they make. A *memorial*, which is similar in its statements and allegations to a petition, but is unaccompanied by a prayer, is said to be objectionable in point of form, because it assumes to speak as an equal and to advise the legislature as to its duties, without any particular object in view; but such papers have nevertheless been received as petitions, when there was no other objection to them, but in point of form, and they contain language equivalent to a prayer.² A *remonstrance*, which may be regarded as a similar representation, unaccompanied by a prayer, and intended to express opposition to the passing of some act, or the adoption of some pending or contemplated measure, is equally objectionable in point of form, and for the same reasons. Papers with this title, when drawn up in respectful language, and amounting substantially

¹ Parl. Reg. XXXII. 388.

² Comm. Jour. LXVII. 398.

to a petition against some proposed or pending measure, have been received as petitions.¹ But, in general, it appears to be the usage, especially when the object is to call in question the proceedings of the house, to reject papers of this description.² A *protest* is similar in character to a remonstrance, but expressed in stronger language.³ A *declaration* against any measure does not seem to be different from a protest or remonstrance.⁴ Papers bearing any of these titles, if they contain a prayer, are received as petitions.⁵ It may be observed in general, that the objections to remonstrances, protests, etc., are, for the most part, merely formal. The same statements, which they contain, may be put into the form of petitions, and are then receivable.⁶ A paper expressing approbation of the proceedings of the house is equally objectionable with a protest or remonstrance, and is not receivable, unless it bears the form of a petition.⁷

1078. While the house is careful, on the one hand, to respect the right of petition, in whatever form it may be exercised, it is equally careful, on the other, to have due regard to its own honor and dignity; and, therefore, if the allegations of a petition turn out to be false, frivolous, groundless, vexatious, or malicious, the petitioners are liable to the censure and punishment of the house; of which, many examples are found in the journals.⁸

1079. The right of petition is not subject to any of the formal or technical rules as to parties, by which the proceedings in courts of law are governed. All persons, of whatever condition, and under whatever circumstances,—married women, infants, aliens,—may petition, provided only that they have sufficient understanding to know what they are doing; if they have not understanding enough to act for themselves, their guardians, if they have any, or

¹ Comm. Jour. XLVI. 388; Parl. Reg. XXIX. 63, 64. It appears from the debates, that the document here referred to was entitled by the parties a remonstrance; in the journal it is entered as a petition.

² Hans. (3), XL. 1860; Same, (3), LXV. 1225; Parl. Reg. I. 467, 473.

³ Parl. Reg. XL. 228. The statement on page 225, that this protest was ordered to lie on the table as a petition, is a mistake; no such entry appears on the journal. See Comm. Jour. L. 87.

⁴ Comm. Jour. LXXIV. 391.

⁵ Parl. Reg. (2), XVII. 63.

⁶ In those of the States in which the right of constituents to address their representa-

tives by means of remonstrances is secured, the above-named formal obligations cannot of course apply.

⁷ Hans. (3), LXIV. 423; J. of H. 25th Cong. 1st Sess. 63. Instruments, with all the objectionable titles mentioned above, and many others, are found inscribed on the journals of congress; but these entries afford no evidence of the contents of the petitions in question; but it may be stated generally, that the strict rule on the subject does not appear in all instances, to be applied in congress.

⁸ Comm. Jour. XII. 146, 170, 628, 682; Same, XIII. 884; Same, XXII. 897; Same, XXXII. 855; Same, XXXVIII. 315.

their friends, if they have no guardians, may petition for them. In regard to proceeding on private petitions, the relation subsisting between the petitioner and others interested in the subject will, of course, be regarded. The petitions of foreigners may be received, provided they reside in England, and the subject of their complaint originated in the acts of British authorities,¹ or the prayer of their petition is within the jurisdiction of the house, as, for example, for naturalization. In those parts of this country, in which the institution of domestic slavery is established, the petition of slaves is not admissible.² But a petition purporting to come from people of color does not appear to be equally objectionable.³

1080. In the earliest periods of parliamentary history of which there are any authentic memorials, before the constitution of parliament had assumed its present form of two distinct branches, and while yet the modern distinction between judicial and legislative functions was hardly if at all perceived, the subjects were accustomed to present their petitions to the great councils of the nation, for the redress of their grievances, principally of a private character, which were supposed to be beyond the jurisdiction, or which it was feared, might be beyond the power, of the ordinary tribunals to redress.

1081. The mode of proceeding upon these petitions, as they were mostly for the redress of private wrongs, was judicial rather than legislative. Receivers and triers of petitions were appointed, at the commencement of each parliament, and proclamation was made, inviting all people to resort to the receivers. These were ordinarily the clerks of the chancery, afterwards the masters in chancery, and still later, some of the judges, who, sitting in a public place accessible to the people, received their complaints and transmitted them to the auditors or triers. The triers were committees of prelates, peers, and judges, who had power to call to their aid the lord-chancellor, the lord-treasurer, and the sergeants at law. The petitions being examined by the triers, they resolved upon the proper disposition to be made of them; in some cases, the petitioners were left to their remedy before the ordinary courts; in others, their petitions were transmitted to the judges on the circuit; in others again, in which the law afforded no redress, they were submitted to the high court of parliament. In later times, and after the separation of the two houses, petitions continued to be received

¹ Hans. (3), XIII. 1115.

² Cong. Globe, IV. 175.

³ J. of H. III. 550.

in the lords in the same manner, until the functions of receivers and triers became superseded by the immediate authority of the house, or by committees, whose office was similar.¹ Receivers and triers of petitions are still appointed in the house of lords, at the opening of every parliament, precisely as in the most ancient times, though they have long since ceased to exercise any of the functions of their office.

1082. In the reign of Henry VI. petitions began to be addressed in considerable numbers to the house of commons alone. These petitions were now, in consequence of the extension of the remedial jurisdiction of the court of chancery, more in the nature of petitions for private bills, than for equitable remedies for private wrongs; and the orders of parliament upon them can only be regarded as special statutes of private or local application. As the limits of judicature and legislation became defined, the petitions applied more distinctly for legislative remedies, and were preferred to parliament through the commons; but the functions of parliament, in passing private bills, have always retained the mixed judicial and legislative character of ancient times.² In the reigns of James I. and Charles I. — and especially after the establishment of the grand committees, as they were called, for grievances, courts of justice, trade, and religion, in the latter, — when the house of commons first began to turn its attention to public affairs, and petitions and complaints relating thereto were much more frequent than they had ever been before, petitions were presented directly to the committee and received and considered by them, without the previous intervention of the house. This practice continued through the commonwealth. On the restoration, it became the usage of both houses to receive petitions in the first instance, and to consider them, and only to refer the examination of them in particular cases to committees.³

1083. Before proceeding further with the subject of petitions, it will be useful to point out, with more distinctness, the difference between those which are private and those which are public. A private petition is one, which prays for some proceeding on the part of parliament, usually the passing of a bill, for the particular interest or benefit of any person or persons, public company, or corporation, municipal or otherwise, or of a parish, city, county, or other locality; or which prays that any such bill, when introduced, may not pass,

¹ May, 382.

² May, 382.

³ May, 382.

or that the petitioners may be heard against it. All petitions, which have in view a measure of national import, or one in which the whole community is interested, are public petitions. Private petitioners are allowed to prove their statements by evidence, and to be heard by themselves or their counsel. Public petitioners have no such right. The former have in view some specific, definite, object relating to themselves. The latter merely express their opinion, including of course, their wishes in reference to some public measure. The weight and influence of a private petition depend upon the facts which it sets forth, and the evidence by which they are substantiated. The respect due to public petitions must, of course, depend not so much upon the statements of fact, and of argument, which they contain, as upon the number and the character of the petitioners. Private petitions, in ordinary times, and in countries where a proper judicial system is established and in operation, cannot reasonably be expected to exceed a very moderate number. Public petitions, especially in times of excitement, cannot be limited as to number or magnitude. It will be seen, hereafter, that this difference in the character of the two classes of petitions, has necessarily led to very important differences in the manner of treating them.

SECTION II. OF PETITIONS AS TO THEIR FORM.

1084. The several subjects, which require to be noticed with reference to the form of a petition, relate, *first*, to the material substance upon which, and the manner in which, a petition is drawn up; *second*, to the different parts of a petition, namely, the superscription or direction, the designation of the parties, the general allegation, and the prayer; *third*, to the signing; and *fourth*, to matters extraneous or annexed to a petition.

ARTICLE I. *As to the Material upon which, and the Manner in which, a Petition is to be written.*

1085. The material required for this purpose is either parchment or paper;¹ on one or more skins or sheets of which, but, if the latter, they must be so joined together as to form one whole;² the petition must be written in the English language;³ or, if in any other,

¹ May, 384.

² Hans. (1), XXXIII. 215, 393.

³ Comm. Jour. LXXVI. 173.

it must be accompanied with a translation, which the member presenting it states to be correct.¹ This rule is one which, of course, admits of occasional relaxation; but whether in those States where the language spoken by a portion of the inhabitants is not English, and where the laws, or legal proceedings, are published in two or more languages, it is applicable, may admit of some question.

1086. In the commons, it is an established rule, that a petition must be written and not printed² or lithographed.³ Previous to the year 1656, it appears to have been allowable, either to present petitions in a printed form to the committee, who were then generally authorized to receive them; or for petitioners to cause their petition, immediately upon being presented, to be printed and distributed among the members of the committee.⁴ In that year an order was made, that no private petition should be printed before being presented to the house.⁵ Whether this order was deemed to be in force or not, after the dissolution of the parliament at which it was made, does not appear; but it seems certain, that it soon became the established practice of the house of commons to decline receiving any petition, either private or public, which was in a printed form;⁶ and such is understood to be the established rule at the present time. In the house of lords, though the rule seems to be the same, it has not been so strictly observed; a printed petition, in favor of the Catholic claims being received in 1813, "but not to be drawn into precedent;"⁷ and, again in 1837, another was received, on which occasion, Lord Lyndhurst said, that hundreds and thousands of printed petitions had been presented and received in that house on the subject of the abolition of slavery.⁸

1087. A petition must also be free from erasures and interlineations;⁹ on the ground, that, where any such alteration appears on the face of the petition and is not explained, it is a circumstance of so equivocal a character, that, in point of form the petition can no longer be considered as that of the persons by whom it is signed.¹⁰ But this circumstance is susceptible of explanation; and if it appears, that the alteration was made by the petitioners themselves, or with their knowledge and consent, — the member presenting the

¹ Comm. Jour. LXXVI. 189.

² Comm. Jour. LXXII. 128, 156, 280.

³ In the legislative assemblies of this country, lithographed or printed petitions are constantly received without objection.

⁴ *Lake v. King*, Saunders's Reports, I. 131. See Paragraph 357.

⁵ Comm. Jour. VII. 427.

⁶ Parl. Reg. XXXV. 372, 373.

⁷ Lords' Jour. XLIX. 298 a.

⁸ Hans. (3), XXXVII. 211.

⁹ Comm. Jour. LXXXII. 562; Same, LXXXVI. 768.

¹⁰ Hans. (1), XIII. 816; Same, (3), V. 1267, 1268.

petition so stating the fact to be, — such petition is to be regarded as that of the signers and may be received.¹

ARTICLE II. *As to the several parts of a Petition.*

1088. Petitions are to be addressed to the house, in which they are to be presented;² if to the house of lords, the form is: *To the right honorable the lords spiritual and temporal in parliament assembled*; if to the house of commons: *To the honorable the commons [or knights, citizens, and burgesses] of the united kingdom of Great Britain and Ireland, in parliament assembled*;³ and any essential variation from this form, as, to address a petition “to the upper house of parliament, denominated the lords spiritual and temporal, in parliament assembled,”⁴ or to the lords spiritual and temporal and commons in parliament “assembled,”⁵ or, “to the lords temporal” alone,⁶ will be such an irregularity as to prevent the reception, or make it necessary to withdraw the petition.

1089. The second part of a petition is its title, or the designation which the petitioners give to it and to themselves, which should be in this form: *The humble petition of [the names or other description of the petitioners being here inserted] humbly sheweth*. It is irregular for the parties to entitle their proceeding a remonstrance, or protest, or memorial alone, because it can only be received as a petition; but it is not fatal to do so, because if the paper contains the other requisites of a petition, it may be received as such.⁷ It is also irregular to entitle the paper “The petition” merely, omitting the word “humble,” or to use the terms “respectfully sheweth,” instead of “humbly sheweth,” and this irregularity has, for the most part,⁸ but not always,⁹ made it necessary to withdraw the petition. In regard to the designation of the parties, if there is but a single petitioner, or some few only, the name and addition of each are usually given; if the parties are numerous, they commonly describe themselves in general terms, as inhabitants, freeholders, silk manufacturers and throwsters, parishioners, resident householders, work-

¹ Hans. (1), V. 1267, 1268.

² The legal designation of our legislative assemblies is given in the several constitutions; and they may be known so readily, that they need not be repeated in this place. A petition, which is addressed to both branches, may be considered as if addressed to either.

³ May, 384.

⁴ Hans. (1), 33, 300, 542.

⁵ Lords' Jour. 44, 642 b., 644 a.

⁶ Lords' Jour. 24, 122 b.

⁷ P. M. Parl. Reg. I. 467, 473; Same, (2), XVII. 63; Same, XL. 228; Same, XXIX. 63, 64; Hans. (3), XL. 1360; Same, (3), LXV. 1223.

⁸ Lords' Jour. 52, 635, 671; Hans. (3), 40, 815.

⁹ Hans. (1), 37, 438.

men, members of a lodge of odd fellows¹ or of a political or other union of a particular place. If petitioners give themselves a designation to which they are not entitled, this is an irregularity, on account of which it may be necessary to withdraw the petition.²

1090. The *third* part of a petition, or the body of it, contains the general allegations or statements upon which the petitioners ask the interference of parliament. This part will be considered more particularly hereafter, when treating of petitions as to their substance; at present, one circumstance only will be alluded to, namely, the length of a petition, or the quantity of matter which it contains. A petition should contain a statement of all the material facts upon which the petitioner relies to substantiate his claim for relief, or to induce the house to the particular course which he desires to have taken; and, in making this statement, it is as much his interest, as it is his duty, to set forth the facts, without any unnecessary minuteness of detail, and in as brief and intelligible a manner as possible; otherwise the very impossibility of reading and considering the petition, consistently with the transaction of other public business of equal importance, will prevent it from being read or considered at all, or, at least, with that attention which the subject of it may perhaps deserve; and thus the right of petition may in some sort be defeated by the very excess of its exercise. The great length of a petition, however, ought not, perhaps, to be considered as an objection to its reception, so much as to the subsequent proceedings upon it; and, in every case, the house must be governed by a sound and wise discretion, as to the subsequent proceedings; on the one hand, not placing its own convenience in competition with the exercise of the right of petition; and, on the other, not sacrificing the rights or interests of one portion of its constituents for the sake of gratifying the humor, or treating with indulgence the ignorance or unskilfulness, of another.³

1091. The last part of the petition is the prayer, in which the particular object of the petitioner is expressed. This is essential, in point of form, to constitute a petition; and, without it a document cannot be received in that character.⁴ A paper containing statements of facts however important, or arguments on any topic, however admirable they may be, is not entitled to the consideration of the house, unless the petitioner has some object in view, further

¹ Hans. (2), IV. 221.

² Hans. (1), X. 685.

³ Parl. Reg. LX. 494, 495; Hans. (1), XL. 459; Same, XXXV. 204.

⁴ May, 384; Hans. (1), VIII. 684; Same, (2), XIII. 567.

than the mere communication of information. The prayer also must be for something to be done or omitted by the house, in the way of its ordinary proceeding as a legislative body; it is not a proper prayer for the petitioner merely to ask the attention of the house to his statements.¹

ARTICLE III. *As to the Signing of a Petition.*

1092. The general rule of parliament with reference to the signing of petitions, as expressed in a resolution of the house of commons, of November 14, 1689,² is, that "all petitions presented to the house ought to be signed by the petitioners, with their own hands, by their names or marks;"³ to which there appear to be three exceptions, *first*, where a petitioner is unable from sickness to sign his name or mark,⁴ in which case, another person may sign for him at his request or by his authority⁵ or consent; *second*, where a petition is all in the handwriting of the petitioner, in which case, if his name appears in the body of the petition, it need not be signed at all;⁶ and, *third*, where a petitioner, being out of the realm, has sent a full and legal authority to another to subscribe his name for him, in which case the petition may be signed in the usual manner by attorney.⁷

1093. When the names attached to a petition, except as above mentioned, appear upon inspection, as for example, where they are written by the same hand,⁸ or are declared, not to be in the handwriting of the parties, whose names they purport to be, the petition is not receivable;⁹ but if a petition, with names thus appended to it, has also one or more genuine signatures, it may be received as the petition of those by whom it is so signed.¹⁰ In a case of this kind, it is necessary that the spurious signatures should be separated from the genuine, either before or after the petition is presented. The member, who has charge of such a petition, may, before offering to present it, detach the spurious signatures, if that can be done, and present it with such of the original signatures as remain annexed to the petition; or the spurious signatures may be erased,

¹ Hans. (2), XIII. 567.

² Comm. Jour. X. 285; Same, XXX. 499.

³ Comm. Jour. XXXIV. 800.

⁴ Hatsell, II. 189, note.

⁵ Hans. (1), XI. 1, 2. See also Lords' Jour. LI. 507, 519; Comm. Jour. LXXXV. 541; Same, XCI. 325; May, 385.

⁶ Hans. (1), XIX. 1148.

⁷ Hans. (1), XXXV. 862; Parl. Reg. XXXII.

⁸ The rules stated in the above paragraph prevail also in congress.

⁹ Comm. Jour. X. 285, 286.

¹⁰ Hans. (1), XI. 33, 34.

¹¹ Hatsell, II. 189, note; Parl. Reg. XL. 449, 451; Hans. (1), XI. 1, 2; Same, 35, 36; Same, XX. 1366, 1367.

and the petition presented with such as are genuine, provided the genuine signatures are known or can be ascertained. But this course is hazardous without previous investigation and inquiry; inasmuch as the erasing of a genuine signature would destroy the petition as to such party, and the suffering of a spurious one to remain might prevent its reception.¹ If a petition, which appears to be irregular in this respect, has already been received, it may either be withdrawn, for the purpose of having the spurious signatures detached or erased, or it may be referred to a committee to inquire how it was signed; and if, upon the report of the committee, it appears that any of the signatures are not genuine, to cause them to be erased.²

1094. The rule above stated not only prohibits one person from putting the name of another to a petition, but also from putting his own as the agent merely, in any form, of such petitioner: thus a petition purporting to come from the creditors of a member, and signed by an individual describing himself as their agent, was not received;³ a petition purporting to be from the master printers of Edinburgh, which was signed by eighteen persons describing themselves as a committee deputed by and signing on behalf of a great number of gentlemen, master printers of the city and vicinity of Edinburgh, being objected to as improperly signed, was withdrawn for the purpose of being put into a proper form;⁴ a petition which was designated by the subscribers to it as that of petitioners on behalf of the western branch of the national union of the working classes of the metropolis was objected to and withdrawn.⁵ Where, however, the parties, whose signatures are thus affixed to a petition on behalf of other persons, sign it also on their own account, or come within the description of the petitioners, as where a petition is signed by the chairman of a public meeting, on behalf of himself and the other persons there assembled,⁶ or by a sheriff, in behalf of the freeholders and inhabitants of his county, at a county meeting,⁷ such petition may be received as the petition of the individual by whom it is signed; and, so in the cases above mentioned, if the persons, by whom those petitions were severally signed, had signed for themselves as well as others, the petitions might have

¹ Hans. (1), XI. 34, 35.

² Parl. Reg. XL. 450, 451.

³ Hans. (1), XXXIX. 134.

⁴ Parl. Reg. (2), XVII. 441, 442.

⁵ Hans. (3), VII. 683; Comm. Jour. LXXXVI. 872.

⁶ Hatsell, II. 189, note; Parl. Reg. (2), XVII. 389; Hans. (3), IX. 594.

⁷ Hans. (1), XXXV. 968, 969, 970.

been received as those of the several petitioners by whom they were signed.¹

1095. The rule under consideration does not extend to the individuals composing any municipal or other corporation or chartered body which has a legal existence, and which must therefore be recognized in its aggregate capacity by parliament.² The petition of such a body should be signed by the proper officers, and authenticated by its common seal, if it has one,³ otherwise by its officers only.⁴ In all cases of this kind, the petition should be drawn up and signed by the legal name and style of the corporation or company.

1096. The house of commons, by a resolution agreed to June 2d, 1774, declared it to be "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."⁵ Independently, however, of any express declaration to this effect, there can be no doubt, that the presentation of a forged petition, (and a genuine petition with some forged and some genuine signatures upon it must be considered as to the former a forgery,) is such an imposition and insult as must of necessity amount to a breach of privilege. The rule above mentioned, though broad and general in its terms, must doubtless be restricted to petitions which have been presented and received by the house; one which has merely been prepared, but not presented, or which has been offered and refused, or which has been presented and withdrawn, can hardly be considered as a breach of privilege. In cases of this kind, although the offence is a breach of privilege, the house does not proceed until a complaint of the forgery is made by some person or persons interested, usually in the form of a petition, which is presented to the house and referred to a committee. In one instance, a complaint was made by means of a letter addressed to a member and read by him to the house, upon which a committee was appointed,

¹ This is not a matter of indifference, as where a petition is so received, it cannot be considered in a parliamentary sense to express the meaning or views, or wishes, of the meeting at which it purports to have been agreed upon, but only of the individual by whom it is signed. Consequently any allusion to it in debate as expressing the sense of the meeting must, of course, be disorderly. In those of the States in which the people are secured by constitutional provision in the right of assem-

bling themselves together to consult for the common good, it might be made a question, whether a petition emanating from such a meeting, and signed in behalf thereof by the chairman and secretary, ought not to be considered as the petition of the meeting. See, also, Cong. Globe, XI. 439.

² Hans. (3), VII. 683; Same, IX. 594.

³ Parl. Reg. XLIII. 687.

⁴ Hans. (2), XIII. 9.

⁵ Comm. Jour. XXXIV. 800.

to whom the petition in question was referred.¹ In reference to this case, Mr. Speaker Manners Sutton, on a subsequent occasion, remarked, that, "the house," he believed, "was influenced by the consideration, that a letter had in some sort the effect of a petition, and inferred a responsibility; the house would exercise its discretion, but the practice was, to take care that the grievance complained of should be substantiated by the assurance and responsibility of some party aggrieved, and therefore to require something more than a mere statement."² In the case to which these remarks were particularly directed, the house had previously appointed a committee upon the statement of a member, that some of the signatures to a certain petition were forgeries, but without any complaint or petition from persons interested; thereupon a petition was presented from some of the persons, whose signatures were alleged to be forged, stating that the petition was genuine, that they had signed it, and offering to substantiate these facts by evidence; and a motion being then made, that these parties be heard before the committee, a debate ensued, which terminated in the committee being discharged, on the ground of the irregularity of the proceeding.³ A similar rule, as to not proceeding unless a complaint is made in some form by parties interested, appears to prevail in the house of lords.⁴ If the committee appointed to investigate a charge of forgery, reports that the offence has been committed, the offender is punished by commitment to one of the public prisons.⁵

1097. Where a petition consists of several skins of parchment, or several sheets of paper, attached together, it is an established rule in both houses, that the skin or sheet, upon which the petition itself is written, or upon which it terminates, should have at least one of the signatures upon it.⁶ This rule is established in order to guard against the imposition of names being procured for one purpose, and attached to a petition for another; one name alone being deemed sufficient to entitle the petition to the respectful consideration of the house, and, if genuine, to furnish some security for the authenticity of all the other signatures.⁷ The reason of this rule is fully and forcibly expressed in the following remarks made in

¹ Hans. (2), XXI. 22, 23.

² Hans. (3), XXII. 189.

³ Comm. Jour. LXXXIX. 92, 108, 109, 116, 121.

⁴ Lords' Jour. XL. 554, (a).

⁵ Comm. Jour. LXXX. 445; Same, LXXX. 561, 582; Same, LXXXIV. 187.

⁶ Comm. Jour. LXXII. 128, 144; Cong. Globe, XXIII. 575; Same, LXXVII. 127; Hattell, II. 189, note; Hans. (1), XXX. 257, 258, Same, (1), XXXV. 94, 95; Same, 95, 96.

⁷ Hans. (1), XXXV. 98.

debate in the house of commons, by the attorney-general, 1817:—
 “ If petitions could be received, written with the signatures on one piece of paper, and the application upon another, what security had the house, that they were genuine? Might there not be a bureau in town for the manufacture of petitions, and another in the country for procuring signatures? And might not some demagogue join the operation of the two, without any authority from the persons whose names were employed? The house should be open to the grievances and representations of the people, but it should know whether the statement of those grievances and the prayer for relief really came from themselves, or were brought forward by persons who abused their confidence in order to influence the public discontent.”¹

1098. The signatures attached to a petition are generally preceded by these words, which follow the prayer: *And your petitioners, as in duty bound will ever pray*; but, this form is not indispensable.² A petition has no date.³

ARTICLE IV. *As to Matters extraneous to a Petition.*

1099. What has been stated under the preceding heads is all that in strictness relates to a petition; but, as it has sometimes been attempted to annex other papers and documents to a petition, usually in the form of evidence in support of its allegations, and to present the whole together; it is necessary to state the rule with reference to such extraneous matters. According to the parliamentary course of proceeding, the way is to present a petition containing a statement of the facts upon which the petitioner's case depends, and to pray that the house would allow the petitioner to be heard with his witnesses and counsel to substantiate those facts; the house then has the option, upon such statement, to go into the case, or to dismiss it at once.⁴ It is deemed to be irregular, therefore, to mix up the facts with the evidence, so as to compel the house to consider them both together in the first instance; or to call upon the house to read and consider the evidence, before it has determined to enter upon the inquiry. It is consequently an established rule, in both houses, that no petition can be received which has affidavits, letters, or other papers or documents attached to it; not even an affidavit of the genuineness of the signatures, or a

¹ Hans. (1), XXXV. 96.

² May, 384.

³ Hans. (3), XXII. 185.

⁴ Hans. (1), XXVII. 395.

statement giving additional reasons for the signatures of some of the petitioners.¹ Inasmuch, however, as the annexation of such papers is only objectionable in point of form, they may be separated from the petition, and the petition presented without them; but, in such a case, it will be for the member having charge of the petition to decide, whether it will be sufficient of itself without the papers annexed; if not, the preferable course is to withdraw the petition altogether in order that it may be put into a proper form or a new one prepared.²

1100. It is essential that the house should have some evidence of the genuineness of a petition or of the signatures to it, which is also a pledge to make good the allegations contained in it, before proceeding to entertain and consider it. This appears to have been anciently effected by the evidence of the petitioners themselves, or of other persons attending for the purpose at the bar, according to the practice as stated by Scobell: "That if the petitions be concerning private persons, they are to be subscribed, and the persons presenting them called in to the bar to avow the substance of the petition, especially if it be a complaint against any."³ The statement of a member, that he knew the handwriting, subsequently came to be considered as equivalent to this evidence in order that petitioners might not be subjected to the necessity of coming from remote parts to prove their petitions; but at the same time, it was not allowed to prove the genuineness of a petition by the affidavits of witnesses taken in the country, and attached to the petition.⁴ The practice, of calling in petitioners to own their petitions, prevailed for some time after the revolution;⁵ but it has now for a long time been discontinued;⁶ as has also the practice, if it ever prevailed, of a member's vouching for the genuineness of the signatures.⁷ The rule, on this subject, which prevails in modern times, is thus stated by Mr. Speaker Abbott: "The house required of

¹ Comm. Jour. LXXXI. 82; Same, LXXXII. 41; Grey, VI. 38; Hans. (1), XXVII. 395; Same, XXXVIII. 682; Same, (2), XIV. 567; Same, (3), XXXVII. 835.

² Hans. (1), XXVII. 395; Same, XXXVIII. 662.

³ Scobell, 87.

⁴ Grey, VI. 36, 37, 38.

⁵ Comm. Jour. X. 13, 35, 65, 70, 75, 81, 192, 285; Same, XIII. 518, 750, 764. In the senate of the United States at a very early congress, an address and memorial of citizens of Philadelphia was presented, and on motion a large and respectable committee of the peti-

tioners being admitted on the floor of the house, the address was read. On the next day it was resolved, "that no motion shall be deemed in order, to admit any person or persons whatever within the doors of the senate chamber to present any petition, memorial, or address, or to hear any such read." J. of S. II. 480, 481.

⁶ Cav. Deb. I. 74.

⁷ In the house of lords, in 1775, Lord Camden vouched for the genuineness of a petition presented by him, on a doubt being expressed as to how the petition came into his hands. Parl. Reg. II. 133, 134.

members presenting petitions, that they should be able to say, that they believed the signatures to be authentic, but it had not been the practice to require absolute certainty on that point; a practice which would be attended with great inconvenience. God forbid, that the subjects of this country should be unable to have petitions presented, unless they came from the most distant parts of the kingdom, to give them into the hands of members, and prove their handwriting."¹

SECTION III. OF PETITIONS AS TO THEIR SUBSTANCE.

1101. The first essential requisite to a petition, so far as its substance is concerned, relates to the language in which it is expressed; which should be decorous and proper in itself, and also respectful towards the house to which it is addressed, as well as its individual members, and to other coördinate bodies and authorities.² The observance of this rule is not inconsistent with the fullest and freest exercise of the right of petition; for there can be no grievance, public or private, within the power of the legislature to relieve, which may not be adequately complained of in courteous and decent terms.³ And a breach of the rule is not only an insult to the legislative body, but to the whole constituency, including the petitioners, of which that body is the representative; tending rather to excite ill-feeling than to promote calm deliberation; and admitting of no answer, consistently with parliamentary forms, beyond the simple rejection of the offensive document.⁴

1102. In judging of the language of a petition, the following rules will be found useful; *first*, that if the wording of a petition is susceptible of more than one construction, that meaning is to be adopted, which is most favorable to the petitioners;⁵ *second*, that the character of the petition does not depend upon the use of any particular expression, but is rather to be gathered from the whole tenor of the language;⁶ *third*, that where offensive expressions are introduced into a petition, which are clearly irrelevant to the prayer

¹ Hans. (1), XVII. 314, 315, 316, 320. The rule, on this subject, laid down in the senate of the United States many years ago, was "that no petition was to be acted upon, unless signed or written in the presence of the member, or unless the handwriting was averred by the member presenting it." Reg. of Deb. III. 235.

² See also J. of C. IV. 670; J. of H. 15th Cong. 1st Sess. 320; Cong. Globe, VII. 245.

³ Hans. (3), XL. 474, 475.

⁴ Hans. (1), XXXV. 204.

⁵ Hans. (2), XV. 970.

⁶ Hans. (2), VI. 1233.

of it, this circumstance affords strong ground for concluding that the disrespect is intentional; ¹ and *fourth*, that when the language of a petition is such, that, if spoken by a member in debate, it would be disorderly and unparliamentary, it is improper to be employed in a petition.² If the object of a petition, when judged of by these rules, appears to be simply to complain of a grievance, it ought to be received; if, without any such purpose, or using it as a mere pretext, the only intention of a petitioner appears to be to vilify and traduce the house, or to treat it with disrespect, his petition ought to be rejected.³

1103. The following are instances of disrespectful and offensive language addressed to the house itself, on account of which petitions have been refused or rejected: "that an arbitrary imprisonment (referring to the commitment of Sir Francis Burdett and Mr. Gale Jones by the house) of the subjects of this realm, during pleasure, for an alleged libel, not proved to be such, is an infringement both of the liberty of the press and of the person;" ⁴ that one vote of the house was "past all endurance," and another "a flagrant illegality;" ⁵ that, in committing Sir Francis Burdett the house had "usurped a power unknown to the law, and not warranted by the constitution;" ⁶ that the commitment of Sir Francis Burdett was "a violation of the personal security of the people of the land, and without law;" ⁷ that it is the universal conviction of the people, that the house of commons doth not, in any constitutional or national sense, represent the nation; ⁸ that boys were sent into parliament, who came solely to vote according to the dictation of ministers, and never heard an iota of the merits of the question; ⁹ that two hundred members of the house, naming them, were returned by borough influence, and calling on the house to expel them; ¹⁰ that the Jews were not the murderers of the Saviour, (which the petitioner offered to prove at the bar,) and did not deserve the persecution and exclusion to which they were subjected; ¹¹ complaining of the great and unnecessary delay in passing the reform bill, and declaring that it was impeded by the upholders of corruption in the

¹ Parl. Reg. XXXV. 350, 357; Hans. (3), IV. 578, 579, 580.

² Hans. (3), VI. 536, 537, 538; Same, (3), XX. 634; Same, (3), XXXIV. 670. The converse of this proposition, namely, that whatever may be spoken in debate, may be stated in a petition, does not hold equally true. Parl. Reg. XXXV. 349.

³ Hans. (2), VI. 1233.

⁴ Hans. (1), XVII. 443, 454.

⁵ Hans. (1), XVII. 1031.

⁶ Hans. (1), XVII. 815, 818.

⁷ Hans. (1), XVII. 885, 944.

⁸ Hans. (1), XXXV. 82, 91, 93.

⁹ Hans. (2), VI. 1370.

¹⁰ Hans. (2), II. 479, 485.

¹¹ Hans. (2), XXV. 413.

honorable house, who, upon the most frivolous pretence, wasted the public time;¹ to impute motives to the house, which, from one member to another, would be disorderly.²

1104. There are also instances of offensive expressions, not particularly affecting, though addressed to, the house itself, on account of which petitions have been refused to be received, as disrespectful to the house; as, where certain petitioners, with an evident intention to make their petition a vehicle for scandal and abuse of the other house of parliament, prayed "that those charitable bequests, which had been hitherto roguishly absorbed by the clerical and lay aristocracy, should be appropriated to their proper uses;"³ where the purpose of the petition is to throw ridicule on an act of parliament, the petitioners complaining "of the profligate expenditure of the public money in granting the queen £100,000 per annum, in the event of her surviving his majesty, and praying for a legislative enactment, by which the widow of every operative in the kingdom should receive £25 per annum, in case her husband should not die worth £100, and adding that they could not apprehend any objection to this, as those individuals had much better claims upon the nation for this small sum, as belonging to the productive classes, being in fact the only producers of wealth, than her majesty to the grant of £100,000;"⁴ where a petition contained these expressions, "your petitioners do not deny that there is a rabble of the trades, as there is a rabble of the lords, and a rabble of aristocracy, but they do not say there is a rabble in your honorable house."⁵

1105. There is another class of cases, in which the language of a petition is improper, not because of its being offensive in itself or indecorous in its terms, but because the statements, of which it is the vehicle, are not proper to be made by petitioners. Thus, it is not allowable for petitioners to refer to any thing which may have been said by members in debate in the house,⁶ either for the purpose of complaint,⁷ contradiction,⁸ or comment;⁹ or to refer to the proceedings of a committee which has not yet reported;¹⁰ or to complain of the mode in which the proceedings of the house are

¹ Hans. (3), VI. 536, 537, 538.

² Hans. (3), XX. 634.

³ Hans. (3), XXXIV. 670.

⁴ Hans. (3), VI. 292, 293, 294.

⁵ Hans. (3), XL. 474, 475.

⁶ Hans. (3), III. 1734, 1735, 1736; Same, (1), XL. 150, 151; Same, (2), 1136; Same, 970;

Same, (3), LXIII. 192; Same, XXIV. 1287; Same, LIV. 462.

⁷ Hans. (1), XL. 150, 151.

⁸ Hans. (3), III. 1734, 1735, 1736.

⁹ Hans. (2), 1136; Same, XV. 970; Same, (3), LXIII. 192.

¹⁰ Hans. (2), X. 8, 9, 10.

conducted;¹ or to take notice of matters which they can only know by means of a breach of the privileges of the other house.²

1106. The second essential requisite to a petition is, that it should set forth a case in which the house has jurisdiction to interfere.³ Thus, in reference to a petition presented in the house of lords, Lord Chancellor Eldon said: "The petition in fact demanded that they should interfere in a case which was open to judicial proceedings; that they should assume an original jurisdiction, contrary to the principles of the constitution;" and the petition was thereupon rejected.⁴ So, where a petition was presented in the house of commons, complaining of a speech made by a member, in which the petitioner was charged with roasting the bible, the petitioner saying, at the same time, that being aware he could not complain of any thing that took place in the house, he merely meant to complain of what had been published as a part of its proceedings in the public prints, the speaker said, that "if the petitioner had to complain of the publication of any libel out of the house, that was not the place to come to for redress, but that there were other tribunals open to him for the purpose."⁵ A petition being offered to be presented from inhabitants of Crete, complaining of their sufferings under the Turkish government in that island, and objection being made to the reception of the petition, the speaker, Mr. Manners Sutton, said, "that the object of the petitioners was to obtain the interference of the crown of Great Britain to protect them from the miseries under which they were at the present moment laboring; the petition did not appear to contain any matter which brought it within the jurisdiction of the house of commons."⁶ So, where a petition was offered to be presented from Polish refugees, resident in London, praying the house to address the crown, in order to obtain its interference in the affairs of Poland, objection being made to its reception, Mr. Speaker Manners Sutton said: "The house might receive the petitions of foreigners residing in this country, when the subject of their complaint originated in the acts of British authorities; but he was of opinion that such a petition as that brought forward, could not be received." The petition was then withdrawn.⁷

1107. A *third* requisite is, that the petition should conclude with a prayer for such interference on the part of the house, or, in other

¹ Hans. (3), V. 1334; Same, XXIV. 1288.

² Hans. (3), VIII. 894.

³ Parl. Reg. XXIII. 113.

⁴ Hans. (1), XXXV. 173.

⁵ Hans. (3), IX. 1275.

⁶ Hans. (3), II. 654, 655.

⁷ Hans. (3), XIII. 1115.

words, for such relief, as is within the power of the house. Thus, in reference to a petition presented in the house of lords, Lord Chancellor Eldon said, "that, in its present shape, the petitioner prayed for no legislative relief, but for proceedings in a court of law, which that house could not originate;"¹ where a petition was presented to the house of commons, in which the petitioner complained, that at a trial for libel, in which the petitioner was the prosecutor, the judge who presided refused to allow him to address the jury, but the petition did not pray for any specific relief, the house, on that ground, refused to order the petition to lie on the table;² where a petition was presented in the house of lords, relating to the then late melancholy occurrences in Kent, and praying for the appointment of a committee to investigate, and that till the report was made, all judicial proceedings might be suspended, Lord Brougham objected to the petition, "because it contained a prayer with which the house had no power to comply; if it complied with that prayer, it would be guilty of a breach of the law; it had no right to stay any judicial proceedings;" and the petition was thereupon rejected.³

1108. But where a petition, besides a prayer for relief which is not within the power of the house, prays also for that which is, the petition will be received; as, for example, where a petitioner set forth that he was imprisoned in the gaol of Edinburgh, at the instance of the clergy of that city, for arrears of an annuity tax, and prayed that he might be set at liberty, and also that the tax might be abolished, the petition was received, although the first part of the prayer was not within the constitutional power of the house.⁴ If the prayer of the petition is within the power of the house to grant, the absurdity of it is no objection to the reception of the petition; as, for example, a petition being presented in the house of commons, praying the house to adopt some legislative enactment, to cause the canon law of the church of Rome to be fairly observed in Ireland, and the receiving of the petition being objected to, for the reason that the house could neither investigate the complaint, nor afford any practical relief, the petition was nevertheless ordered to lie on the table by the house, on the ground above

¹ Hans. (1), XXXIII. 215.

² Hans. (1), XL. 910.

³ Hans. (3), XL. 803. A petition purporting to pray for the dissolution of the Union is

admissible in the congress of the United States. J. of S. 31st Cong. 1st Sess. 136; Cong. Globe, XI. 168; Same, XIII. 55.

⁴ Hans. (3), XXXIII. 326.

suggested, namely, that the relief prayed for was within the power of the house, though not likely to be afforded.¹

SECTION IV. OF THE PRESENTATION AND READING OF PETITIONS.

1109. In order to bring a petition before the house for its consideration, it must be regularly presented and read; and until this is done, no order can properly be made respecting any petition, not even for its lying on the table.² It is necessary, then, before entering upon the proceedings which may take place with reference to petitions, to explain in what manner they are presented and received, and their contents made known to the house.

1110. The right of petition, on the part of constituents, implies a corresponding duty on the part of the representative body, to receive and consider their petitions. In order that petitions should be considered, they must in the first place be brought to the knowledge of the representative body. This may be done in two modes, either by the petitioners themselves or their agents presenting their petitions directly to the house, or by the members presenting them in the house.

1111. The first of these two modes, or a course equivalent to it, seems to have prevailed to some extent, but not to the exclusion of the other, from the time of James I. until some time subsequent to the restoration. During this period, and especially that part of it in which grand committees formed so important a portion of the parliamentary machinery, it appears to have been the practice, at least, in part, for petitioners to deliver their petitions directly into the hands of the appropriate committees. Sometimes, as in December, 1640, a general committee on petitions was appointed, whose business it was "to peruse all petitions that are come in, or to come in;" in order "to see what petitions are fit to be received, and to what committee they are fit to be referred, and to report to the house."³ This practice — of petitions being delivered by the petitioners themselves, — fell into disuse probably, when the sitting of the grand committees was discontinued; and, at the present day, with two exceptions which will presently be stated, all petitions are required to be presented in the house by members.

1112. The principal mode, therefore, in which constituents are

¹ Hans. (3), XXXIV. 1042, 1043, 1044.

² Hans. II. 188.

³ Comm. Jour. II. 50; Rushworth, IV. 97.

at liberty to approach the aggregate representative body, being through and by means of the individual members of that body; it is accordingly held to be one of the most undoubted duties of a member of parliament, when requested by any of his constituents, whether immediate or not, to offer to present their petitions, and to bring the contents thereof to the knowledge of the house of which he is a member. But, when a petition is thus offered or presented, and brought to the knowledge of the house, the duty of the member to whom it has been intrusted is discharged; he is not thereby committed to the support of any of the opinions advanced by the petitioners; the petition, if received, becomes the property of the house; and any other member has as much right, and is as much under obligation to make motions for the purpose of proceeding further upon it, as the member by whom it was introduced.¹

1113. Two courses only seem open to be pursued with reference to the presenting and receiving of petitions, namely, either to allow all petitions to be presented in the first instance, and then, upon reading them, to determine whether they are proper or not to be received; or to determine beforehand, and without reading them, whether they are fit to be received. It might be said in favor of the first course, that, in no other way so well as by hearing a petition read, could the house determine upon its character. But, on the other hand, it is obvious, that if it were the duty of the house to hear all petitions read in the first instance that might be offered, its time, and the time of its constituents, might be completely wasted in listening to petitions, upon which it would be impossible to proceed, or which might be made the vehicle of insult and outrage towards the house or its members.² In view of the inconveniences by which this course would unavoidably be attended, it is the established practice in parliament to determine beforehand, and without reading a petition in the house, whether it is fit to be received.

1114. In order to enable the house to proceed in this manner, it is an established rule, that it is the duty of every member, when called upon by his constituents to present a petition, to read it through, or, in some other mode,³ to become master of its contents, and to satisfy himself by inquiry or otherwise, in regard to all extraneous matters relating to it, so as to become possessed of all the facts upon which the question of its reception depends. If the

¹ Cav. Deb. I. 74; Parl. Reg. LXI. 379. 152; Same, 151; Same, 154, 155; Same, 157, 158; Same, 205; Same, (3), III. 1734, 1735, 1736; Same, LX. 645.

² Hans. (1), XXXV. 204.

³ Hans. (1), VI. 185; Same, XXXV. 149,

result of this examination and inquiry is such as to satisfy the mind of the member, that the petition ought not to be received, according to the parliamentary rules above mentioned,¹ that is, if he would feel it his duty to give his vote against receiving it, if offered by another member, or if he would consider it disorderly in himself or any other member to use the language it contains in debate, it is his duty to decline offering it to the house. The petitioners may then put their petition into the proper form, or erase the objectionable passages, so as to entitle it to be received, and cause it to be presented by the same or some other member; or, without altering their petition, they may carry it to some other member, and have the same process repeated; if, on the other hand, the member is satisfied that the petition ought to be received, it is his duty, as already observed, to offer to present it to the house. If his mind is left in doubt, it is not his duty to decline presenting the petition, but to offer it to the house, with a special statement of the facts, upon which his doubts arise, and to leave it to the house to determine.²

1115. If a member on examination of a petition, which has been intrusted to him to be presented, finds passages in it so objectionable, that he can neither vouch for their decency and propriety himself, nor refer them specially to the house for its consideration, the only course which he can properly take is to decline presenting the petition. He has no right to erase, cut out, or alter, in any way, the objectionable parts; and by so doing, without the express consent or knowledge of the petitioners, the document would cease to be their petition.³ The reasons for this rule were thus forcibly laid down by Mr. Speaker Manners Sutton: "If members were allowed to make erasures at their own discretion, there would be no possibility of drawing a line of distinction, as to what might, or might not, be altered, and petitions might be converted into supporting a wholly different object from that intended by their author. There was another objection to such a course, namely, that it would lead to the principle of causing members to adopt petitions as their own, instead of being merely channels of conveying petitions to the house, without committing themselves to their contents."

1116. A member having a petition to present, who has prepared himself beforehand, as above mentioned, and taken a proper time for

¹ Ante, 964.

³ Hans. (3), V. 1267, 1268; Same, VI. 7,

² Hans. (1), II. 1043; Same, XXXV. 151; 8, 9.
Same, 205, 206; Same, 206, 207; Same, (3),
III. 1734, 1735, 1736; Same, LX. 645.

the purpose, should inform the house that he has such a petition intrusted to him to present; he should at the same time make a statement of the facts necessary to be known by the house, in order to enable it to determine whether the petition is a fit one to be received;¹ and he should then conclude with a motion that the petition be brought up to the table. This motion, however, may be made with equal propriety by any other member. It would seem, that the facts thus necessary to be stated by a member offering a petition should, in strictness, be all which relate to the question of reception, and upon which the decision of that question may depend in the particular case, namely, the names or general designation and description of the petitioners; the substance or a brief summary of the facts alleged; the prayer of the petition; that the member offering it believes the signatures to be genuine; if the petition is in a foreign language, that the translation by which it is accompanied is correct; if there are any erasures or interlineations apparent upon the face of it, that they were made by the petitioners themselves, or with their consent and knowledge; that in his judgment the petition is expressed in fit and decent language, and contains nothing intentionally disrespectful to the house; and that it is drawn up in the proper form.

1117. In practice, however, much of this strictness is dispensed with, in view of the confidence which the house reposes in its members, and for the purpose of facilitating the business. According to the ordinary course of proceeding, all that is required of a member offering to present a petition is, that he should state the substance and prayer of it, and that in his judgment it is couched in fit and decent language and contains nothing intentionally disrespectful to the house, and that he should be prepared, at the same time, to answer questions with reference to the other points above suggested, if the speaker or any member should think proper to make them the subject of inquiry. If the member entertains doubt with reference to some of those points, he should not wait to be interrogated, but should make his statement full at once.

1118. The only security, which the house can have against being insulted by the language of petitions, being the confidence which it reposes in its members, first, that they will faithfully read or otherwise obtain a knowledge of the contents of all petitions which they undertake to present; and, secondly, that they will truly inform the house of the opinions which they form of the language

¹ Hans. (1), XXVIII. 539; Same, XXX. 1007; Same, XVII. 220; Same, VIII. 684; Same, XXXV. 149.

of those petitions; it is an established rule, that no member is at liberty, except under extraordinary circumstances, to offer a petition to the house which he has not read,¹ and to the language of which he is not prepared to give his sanction, or in reference to which, he is not willing to state the views which he entertains.² If a member offers to present a petition, and, on being questioned as to the language in which it is composed, declares that he has not read the petition, or will neither say that in his judgment the language is decorous and proper, nor express the views which he entertains of it, such petition will be refused, or the member will be directed to withdraw it.³ Where a member, on presenting a petition, insisted that he was not bound to form any opinion as to the language of it, and would not say, whether, in his judgment, it was intentionally disrespectful or not, whatever his opinion might be, the motion for bringing up the petition was negatived without a division.⁴

1119. If a member abuses the confidence thus reposed in him, either by negligently and carelessly allowing the house to receive a petition which is disrespectful or improper in its terms; or by wilfully stating that it contains nothing, which, in his judgment, is intentionally disrespectful to the house, in order to induce the house to receive it; such member thereby implicates himself in the language of the petition,⁵ and becomes liable to the censure and punishment of the house.

1120. In making a statement of the contents and prayer of a petition, by way of introduction to the motion that it be brought up, a member cannot be called upon to read the petition, or any part of it;⁶ nor can he, if he desires to do so, be permitted to read the petition itself;⁷ though he may read particular parts, or notes or extracts of particular parts, if it be necessary to bring them to the knowledge of the house, as, for example, where the member wishes to present them specially to the house for its consideration.⁸ If the petition is to be read in full, or as a petition, it must first be received by the house, and, upon the reading being ordered, be read by the clerk at the table.⁹

1121. When a member having a petition to present has thus

¹ Hans. (1), XXXV. 149, 152; Same, 151; Hatsell, II. 189, note.

² Hatsell, II. 189, note; Hans. (1), XXVIII. 539.

³ Hans. (1), XXXV. 96.

⁴ Hatsell, II. 189, note.

⁵ Hatsell, III. 240, note.

⁶ Parl. Reg. XXXV. 367, 368.

⁷ Hans. (1), XXXV. 79; Same, (3), II. 342, 343; J. of H. 24th Cong. 2d Sess. 182.

⁸ Hans. (1), XXXII. 89; Same, (3), LXXIX; Same, II. 342, 343.

⁹ Hans. (1), XXX. 1007.

made a statement of the facts, which, in his judgment, entitle it, or which he desires to bring, to the attention of the house, the proper motion (and the only one) to be made is, that the petition be brought up, or, in other words, received by the house. This motion is generally made by the member offering the petition, but may be properly made by any other member; and is to be seconded, proposed to the house, and considered in the same manner, and according to the same rules, with other motions.

1122. If, upon the introductory statement, and before the motion to bring up is made, it appears that the petition is clearly objectionable and not fit to be received, on account of some informality, or of some substantial defect, which is then pointed out by the speaker or other members, the petition may be withdrawn by the member, at his own pleasure, in order that the informality may be corrected, or a new petition prepared. The suggestion of the speaker or the opinion of experienced members, offered at this point in the proceedings, is usually followed; but the member may nevertheless persist in offering the petition, and may accordingly move that it be brought up. If such defect or informality is not discovered or alluded to, until after the motion to bring up has been made, seconded, and proposed, the petition and motion can then only be withdrawn in the usual manner.

1123. Inasmuch as the facts, upon which the question of receiving a petition is to be decided, are only to be derived from the statements of the member by whom it is offered to be presented; it is the established practice for members to put questions to him with reference to those facts, at all stages of the proceedings, and as well after as before the motion to bring up; and the member may be interrupted in his statement or speech for that purpose; but, when he has answered the inquiry put to him, he is then at liberty to proceed as before, unless, from his answer, it appears, that there is no longer any ground or occasion for proceeding.

1124. The member offering a petition, after making his introductory statement as above, may then proceed to address the house on all the topics embraced in it; either after making the motion to bring up, in which case, it must be seconded and proposed before he can speak, or upon the supposition that he will conclude his speech with that motion. The motion to bring up may be debated, and proceeded with, in the same manner as with other motions, according to the ordinary rules of debate. If this motion is decided in the negative, that is, if the house refuses to allow a petition to be brought up, it is as much rejected, as it would be upon a

motion to that effect. If the motion is agreed to, the petition is then brought up, and delivered in at the clerk's table, by the member offering it.

1125. The proceedings above described, in the presentation and reception of petitions, are those which take place in the house of commons, and involve the parliamentary principles which relate to this subject. In that assembly, the motion for the reception of a petition is, in form, that it be brought up, that is, from the bar, from which all such papers when presented to the house are brought. The practice in the two houses of congress, and in other legislative assemblies in this country, is in exact conformity with the principles above established. When a member has a petition to present, he prepares himself for the purpose, according to the principles stated, in such manner and to such an extent, as he thinks proper, or as the rules of the assembly to which he belongs require; and having thus prepared himself, and obtained the floor at a proper time, he makes such statement as he thinks proper, and thereupon offers to present the petition to the assembly. This offer is considered as an application to the assembly to receive the petition by general consent, and if no objection is thereupon made, the petition is accordingly received. If objection is made, for which no reason need be given, this raises the question of reception, as it is called.¹

1126. The objection may be accompanied by the objector, or by some other member with a motion that the petition be not received; or the member offering to present the petition, or some other, may thereupon move, that it be received; or if no motion is in fact made, the offer to present, objected to, is considered as equivalent to a motion, on the part of the member offering to present the petition, that it be received, even although he declares that he does not make that motion, or expressly declines to make it.² The question before the assembly, therefore, and to be decided in the ordinary manner, is on the reception of the petition stated either in the negative or affirmative form, but generally in the latter.

1127. The question of reception may be preceded by an objection to the offer to present, on the ground of order, as, for example, that the petition is not in a proper form, or that it belongs to a class which is excluded altogether, by a special rule of the assembly, from being received,³ and will only arise, in the event of the question of

¹ Cong. Globe, III. 176, 177, 298; Same, IV. 139; Same, 94; Same, VIII. 119; Same, XIV. 18; Jefferson's Manual, Sec. XIX.

² Cong. Globe, VIII. 119.

³ J. of H. 26th Cong. 2d Sess. 95, 127; Cong. Globe, IV. 139.

order being overruled by the presiding officer of the assembly. If there is no question of order, or the question of order is overruled, the question of reception is then to be put, and is decided upon or otherwise disposed of by the assembly, like any other question. But until it is decided in the affirmative, the petition is not received by the assembly, nor in its possession. In the mean time, as, for example, if the question of reception is ordered to lie on the table,¹ the petition remains in the possession of the member offering to present it. Where a part only of a petition is objectionable as against order, but that part is so connected with the residue that if the latter is received and referred, it will be necessary to send the whole petition to the committee, in that case, the petition cannot be received.²

1128. The next regular step in the course of proceeding is the motion that the petition be read, which may be made by the same or any other member. This motion is essential, in order to bring the contents of a petition to the knowledge of the house; for, as has been already observed, it is irregular for the member offering a petition to read it in full, either in his introductory statement, or as a part of his speech. It is competent for members to address the house on this motion; which may be debated, and proceeded with, in the same manner as any other motion. If decided in the negative, that is, if the house refuses to allow the petition to be read, it is effectually rejected; if decided in the affirmative, the petition is read by the clerk at the table, and the contents of it are then fairly in the possession of the house. If, upon the reading, defects of form or substance should appear, which had been overlooked, or not alluded to, the member may still be permitted to withdraw the petition, for the purposes above mentioned.

1129. When a petition has thus been received (but not before) and read, and its contents brought to the knowledge of the house, it is then to be proceeded with, and considered by the house according to the various forms of parliamentary practice relative to petitions. These proceedings will form the subject of a succeeding section.

1130. It seems to have been usual, at an early period, for petitions to be presented by some of the members for the county to which the petitioners belonged; but this practice, if it ever prevailed,

¹ Reg. of Deb. XII. Part I. 833, 835, 836; Same, XIII. 60, 229; Same, XIV. 18; Same, Cong. Globe, IV. 79, 80; Same, VII. 47, 94; XVIII. 855.

² J. of H. 28th Cong. 1st Sess. 119.

and it probably never did prevail to the extent of becoming a rule, has long since ceased; petitioners now intrusting their petitions, if public, to those who agree with them in sentiment, and are willing to maintain their views, if necessary, and, if private, to those members who are willing and able to undertake the conducting of their business through the house. To the general rule, however, that every member is competent to present whatever petition may be intrusted to him, there appear to be two exceptions, which will be mentioned in the succeeding paragraphs.

1131. The first is, that no member is competent to present his own petition;¹ for the same reason that he is not allowed, as a member, to participate in any proceeding, in which he is personally interested; but must intrust his petition, like other petitioners, to some member to present. A member, thus interested, is entitled, of course, to be heard with reference to the subject of his petition, at the proper time, and in the same manner that members are heard with reference to subjects in which they are personally interested.

1132. The second exception is the speaker, who, although a member, is precluded by the office which he fills, from participating in the ordinary business of the house. It is consequently irregular to send a petition to Mr. Speaker, in order that he may take charge of and present it as a member. When a petition was thus sent to Mr. Addington, when speaker, to be delivered to the house, he declined doing so, and gave his reasons therefor to the house in the following terms: "The objection which he had to complying with this request, was solely on the point of regularity of the proceedings of the house. Had he (as speaker) received the petition in this manner, the question 'that this petition be now received or brought up,' could not be put. The check on improper petitions would thus be done away with, if he had made himself the channel of communication of petitions, or any other paper presented to him in this manner. It was true, that a vote of the house early in the session (one of the sessional orders) gave the speaker power to present papers under particular circumstances, to the house, but he thought that this instance would have exceeded the proper bounds of his power."² A further objection, not of so formal or technical a character, might also have been stated, namely, that if it was competent to the speaker to make a motion, either with or without

¹ Hans. (3), LIX. 475, 476. But see also J. of H. 32d Cong. 1st Sess. 73.

² Parl. Reg. XXXII. 2.

its being seconded, and thereupon to put a question, that the petition in his possession be received by the house, unless this motion were acquiesced in by the unanimous consent of the house, it would be necessary for the speaker to take such a part in the proceedings, as would not be competent to him in other cases.

1133. The reasons, assigned by Mr. Speaker Addington, as quoted in the preceding paragraph, for not delivering to the house a petition which was sent to him, seem to imply that he thought the petitioners expected, in this way, to get their petition before the house, without a vote on the question of reception; but it may be fairly presumed that if he could have otherwise presented the petition, consistently with the rules of order, he would have done so. In this country, petitions are often presented, and particularly in both branches of the congress of the United States, by the presiding officers; but in the senate of the United States, the twenty-fourth rule seems to sanction the practice by taking it for granted, and in the house of representatives, the twenty-fourth rule expressly provides, that "Petitions, memorials, and other papers addressed to the house, shall be presented by the speaker, or by a member in his place." A petition, presented by the presiding officer, is to be treated in precisely the same manner as if presented by any other member.¹

1134. It was stated that, with two exceptions, all petitions were required to be presented by members; these exceptions are the petitions of the corporations of London and Dublin. The corporation of the city of London, by the indulgence of parliament, is entitled to the privilege of causing its petitions to be presented at the bar of the house, and to have them received without their contents being opened by a member, or in any other way, communicated to the house. This indulgence is confined strictly to petitions for the corporation of the city of London, signed by the town clerk; the corporate style of which is, "The lord mayor, aldermen, and commons, of the city of London, in common council assembled." Petitions from the livery of London, in common hall assembled, must be signed by those individual liverymen who approve of its contents, and must be offered by a member, like other petitions.² Petitions of the corporation of the city of London are presented at the bar by the two sheriffs, or by one only, if the other is a member of the house,³ or is unavoidably absent,⁴ from

¹ Reg. of Deb. X. Part I. 960, 1115, 1116.

² Hatsell, III. 231, note; Same, 237, note.

³ Comm. Jour. LXXXIII. 279.

⁴ Comm. Jour. XCII. 317, 436; Same, XC. 506; Same, LXXV. 213.

sickness or other cause. If the sheriffs are both members, or are both unable to attend, the petition may be presented by some (two) of the aldermen, and several (four) of the common council.¹ The mode of proceeding is as follows. The sheriffs attend in the lobby, with the petition, and cause the house to be informed of their attendance. A motion is then made, and a question put, that the sheriffs be called in. If this motion passes in the affirmative, the sheriffs are accordingly called in to the bar, where they present their petition, which is received by the clerk, and by him brought to the table of the house, without any motion or question made therefor, and the sheriffs then withdraw. When they are withdrawn from the bar, a motion is made, and the question put for reading the petition. If this motion is agreed to, the petition is read by the clerk; and the house, being thus made acquainted with its contents, proceeds to dispose of it in such manner as it thinks proper.² If only one of the sheriffs should attend, or if there should be any other variation from the usual course of proceedings, the reason of the absence of the other, or of the unusual course, should be communicated to the house by a member, before the question is put for calling in the persons in attendance, in order that a negative may be put upon that question, if there is any irregularity in the proceeding.³ Petitions from the corporation of the city of Dublin are presented in the same manner by the lord mayor.⁴ This privilege was first extended to the city of Dublin, at the request of the corporation, in 1813. No privileges of this sort are enjoyed by any individual or corporation in this country.

1135. It will be perceived, that, when petitions are presented in this manner, a question is to be made for calling in the persons in charge of the petition, and another for reading it, and, upon each of these questions a debate may ensue, and the proceeding be arrested; but, in general, the petition is allowed to be brought in and read. After the reading, the proceedings are the same as in regard to other petitions.

1136. It not unfrequently happens, that a single member has a large number of public petitions of the same character intrusted to him to present; in which case, it might be convenient both for such member and for the house, that the whole should be presented together as one petition. This is allowed by the indulgence of the house, if the member will undertake to say, that they are all in

¹ Hatsell, III. 237, note.

² Hatsell, III. 238.

³ Comm. Jour. LIX. 292.

⁴ Comm. Jour. LXVIII. 299, 212, 219.

substantially the same terms. If there are variations in them, they should be separately presented.¹

1137. The rules which have thus been stated, relative to the presenting of petitions, belong to the practice of the house of commons. The proceedings in the lords are somewhat different. In the latter, as in the former, it is equally the duty of members to present petitions; and, as a preliminary proceeding, to make themselves acquainted with their contents, in order to see that they contain nothing impertinent, unbecoming, or improper.² If satisfied as to the fitness of a petition to be presented, the lord with whom it is intrusted is at liberty to present it, and to have it read by the clerk, without any question. But, in presenting it, it is his duty to open it, that is, to state its substance and prayer, before it is read;³ if, upon this statement, the petition appears to contain matter, which renders it unfit to be received, the usual course is for the peer by whom it is presented to withdraw it;⁴ if nothing of this kind appears, the petition is laid on the table and read. In opening a petition, the member may comment upon it, and upon the general subjects to which it refers; and a debate may thereupon take place, in the same manner as upon any other subject. No question being necessary for reading, no debate can properly take place on that subject.⁵

SECTION V. OF CERTAIN CLASSES OF PETITIONS, IN REFERENCE TO WHICH THE PRELIMINARY PROCEEDINGS ARE PECULIAR.

1138. Before entering upon the consideration of the proceedings which take place relative to petitions subsequent to their being received and read, it will be necessary to take notice of certain classes of petitions, in reference to which the preliminary steps differ in some respects from the ordinary course above described. These subjects will furnish the matter of this section. The several classes of petitions, alluded to, are the following:—1. Election petitions; 2. Petitions relating to or affecting an election case; 3. Petitions containing a charge against, or implicating the character or conduct of, members; 4. Petitions for public money; 5. Petitions against bills, for the levying of a tax or duty; 6. Private petitions; 7. Previous petitions. It is hardly necessary to remark

¹ Hans. (1), XXXV. 859, 860, 861; Same, 873.

² Parl. Reg. LX. 315, 316; May, 388.

³ Lords' Jour. XIV. 22.

⁴ Hans. (3), XIII. 1185, 1187, 1188.

⁵ Hans. (3), XIII. 1185, 1187, 1188.

that what is said under the fourth and fifth heads has no direct application in this country.

ARTICLE I. *Election Petitions.*

1139. In the house of commons, a system of proceeding has been established by a series of statutes, enacted in the year 1770, and since, for the trial of controverted elections and returns, according to which cases coming within the statute description of election cases are required to be determined. Petitions relating to cases of this sort technically called Election Petitions are presented and delivered in at the table, as a matter of course, and without any question; subsequent proceedings are required to be instituted thereon according to the mode provided by the statutes; and no other mode of proceeding would be legally valid or have any legal effect upon the return or election thus brought in question. Petitions, referring to, or involving an inquiry into the merits of, an election, but which nevertheless do not possess the characteristic features of an election petition, cannot be proceeded with in that manner, but only according to the ordinary course of proceeding. Hence, it is sometimes a question of importance to determine, whether a petition, which has been put into the hands of a member to present, is or is not technically an election petition; if it is, it should be presented and proceeded with in that form; if not it should be presented in the usual manner.

1140. When, therefore, a petition has been presented as an election petition, and, on the attention of the house being called to its contents, it appears not to come within the technical description of an election petition, the practice is to allow it to be withdrawn, in order to be presented in the usual manner.¹ If an order has been already made for taking such petition into consideration on a given day, it would be proper previously to discharge the order; though allowing the petition to be withdrawn would doubtless be equivalent to a discharge of it. On the other hand, when a petition is offered to be presented, in the usual manner, and, upon examination of its contents, it appears to be an election petition,² or, in substance, an election petition,³ it may be withdrawn, in order to be proceeded with, according to the statutes; or, if a petition is presented and read, in the ordinary course of proceedings, and, upon

¹ Comm. Jour. LXXXII. 317.

² Comm. Jour. LXXXII. 436.

³ Comm. Jour. LXXXIV. 786.

the reading, it appears to be an election petition, and is within the time limited by the sessional order of the house, it may then be proceeded upon as such.¹ It is presumed, that if a petition, which has been proceeded upon in the usual course, should at any time be discovered to be an election petition, the house would at once vacate or rescind all orders and proceedings relating to it, and allow it to be withdrawn. Where a petition was presented and read, in the usual manner, and a doubt then arose whether it was not an election petition, the speaker, Mr. Manners Sutton, said: "If the house were clearly of opinion, that it was an election petition, the regular course would be to withdraw it, for the purpose of again presenting it in that form, to be taken into consideration in the usual way. If the house were not satisfied on the subject, the most judicious way would be to adjourn the debate, to give members an opportunity to look into the petition, and to make up their minds."² The debate was accordingly adjourned, and the petition ordered to be printed. On resuming the debate, the house resolved that it was an election petition, and made the usual orders.³

ARTICLE II. *Petitions relating to or affecting an Election case.*

1141. It is a general rule, that no discussion can be permitted to take place in the house, which may incidentally or directly affect the proceedings upon an election case, or prejudge it in the house, and thus tend to affect the committee with relation to any point involved in such case, until after the decision of the committee.⁴ The same rule applies, and for the same reason, with regard to petitions involving inquiries into matters connected with the merits of an election. If a petition complaining of such election has already been presented and is pending, no other petition involving inquiries which may affect or prejudice the trial of such election can be received, until the election is determined.⁵ If no election petition is pending, then, in order to prevent the receiving of a petition, which may affect or prejudice a case which may probably arise, such petition must appear to involve matter which can alone be tried by an election committee.⁶ In the former case, the petition may be received, when the election has been determined; in the latter, it cannot be received at all, unless presented as an election

¹ Comm. Jour. LXXIV. 45, 46, 52, 53.

² Hans. (1), XXXIX. 149.

³ Comm. Jour. LXXIV. 45, 46, 52, 53.

⁴ Hans. (2), XVI. 1186.

⁵ Hans. (3), I. 574.

⁶ Hans. (3), VI. 642, 643.

petition.¹ In reference to petitions of this description, it is immaterial what the prayer is, provided only that the inquiries involved in them may have the effect above specified.² When a petition is offered to be presented, which, upon examination, appears to contain "matter for an election petition only," the course is to allow it to be withdrawn.³

ARTICLE III. *Petitions charging or implicating Members.*

1142. When a petition is to be presented, containing matter of charge against a member, or implicating in any manner his character or conduct, for the purpose of a parliamentary inquiry, it is necessary that such member should receive notice beforehand of the time when the petition is to be presented; in order that he may then be in attendance in his place, and have an opportunity of vindicating himself, if he sees fit, against the attack upon him, at the time when the charge is made. If a petition of this kind is offered, without such notice having been previously given, it should be withdrawn, until the notice is given.⁴ This course of proceeding is analogous to what takes place, when one member makes a charge or complaint against another. The first step in that case is to move, that the member in question do attend in his place on a certain day; and both parties attending accordingly, the former prefers his complaint.

ARTICLE IV. *Petitions for Relief out of the Public Money.*

1143. It is an order of the house of commons, first adopted December 11, 1706,⁵ and made a standing order June 11, 1713,⁶ "that this house will receive no petition for any sum of money relating to public service, but what is recommended from the crown."⁷ In consequence of the rule thus established, whenever

¹ Hans. (3), VI. 642, 643.

² Hans. (3), VI. 642, 643.

³ Comm. Jour. XXXVI. 786. It was expressly decided by Mr. Speaker Onslow, that a motion to bring up could only be withdrawn by the unanimous consent of the house. Comm. Deb. VII. 309, 314; Comm. Jour. XXII. 79.

⁴ Hans. (2), XVI. 151. See also J. of S. IV. 197, 263; Hans. (2), XVII. 302; Ann. of Cong. I. 55, 56; Hans. (3), XXXVI. 769, 855; Same, XXXVI. 761.

⁵ Comm. Jour. XV. 211.

⁶ Comm. Jour. XVII. 417.

⁷ The uniform practice of the house of commons has applied this order not only to petitions for public money, or for money relating to public service, but to all motions whatever for grants of money, whether on public or private grounds. Hatsell, III. 195, 196. In one instance, the rule was applied to the receiving of a report. Comm. Jour. XCII. 478.

any petition is offered, which desires relief by public money, and a motion is made for bringing up the petition, before the question is put upon this motion, it is necessary that the recommendation of the crown (which, however, goes only to an inquiry by a select committee) should be signified by some member, authorized for the purpose; and, if the chancellor of the exchequer, or person usually authorized by the crown, declines to signify this recommendation, the house cannot properly receive the petition.¹ Under the denomination of petitions for money relating to public service, are included all petitions which pray directly or indirectly for an advance of public money;² for compounding any debts due to the crown;³ for remission of duties payable by any person;⁴ and for compensation for losses.⁵ In many instances, however, petitions have been received, praying for compensation for losses contingent upon the passing of bills.⁶

1144. A petition, which states any distress, and prays to be relieved from the charity or munificence of the public, ought not, in point of form, either to prescribe the amount, or to mention the fund out of which that relief is to be granted. The prayer should be general; and it should be left open to the consideration of the house, what the nature of the relief shall be, and to what extent.⁷

1145. The rule above mentioned applies only to direct petitions for public money, and is not to be extended beyond the strict necessity of the case; and, therefore, although the prayer of a petition probably contemplates pecuniary aid, yet if the terms of it do not necessarily require so strict a construction, the recommendation of the crown does not seem to be necessary to the receiving of the petition.⁸ When the interests of the crown are only indirectly concerned, its consent is equally necessary, but may be signified at any stage of the measure founded on the petition.⁹

ARTICLE V. *Petitions against Tax Bills.*

1146. The house of commons found it necessary, very soon after the revolution, to establish a rule, "that they would not receive any petition against a bill then depending, for imposing a

¹ Hatsell, III. 242.

² Comm. Jour. XC. 42, 487, 507; Same, 74.

³ Comm. Jour. LXXV. 167.

⁴ Comm. Jour. LXXX. 353.

⁵ Comm. Jour. LXXXVII. 571; Same, XC. 487.

⁶ Comm. Jour. XC. 136; Same, XCII. 469.

⁷ Hatsell, III. 241.

⁸ Hans. (2), I. 1037.

⁹ Hans. (1), VIII. 465.

tax or duty :” upon the principle, that a tax generally extending in its effect over every part of the kingdom, and more or less affecting every individual, and in its nature necessarily and intentionally imposing a burden upon the people, it can answer no end or purpose whatever, for any set of petitioners to state these consequences to the house as a grievance; ¹ and, upon the further ground, that, if the house were to receive such petitions, it would be impossible ever to pass a bill for a tax, inasmuch as so many different petitions would be presented against it, that it would be impossible to hear counsel separately upon them all, within the usual time of the duration of any one session of parliament, ² and in the mean time, the nation might be undone for want of an immediate supply for the public use. ³ It is remarkable, that this rule was always nugatory as regarded petitions from the city of London, which, as has already been seen, are received by the indulgence of the house, without their contents being first made known. ⁴

1147. The practice, under this rule, which has recently been abrogated, was always confined to petitions against a tax for the supply of the current year; and was never applied to petitions offered in a subsequent session, praying the repeal or reconsideration of the taxes imposed in a former session. No public service is delayed by receiving and considering such petitions; nor can the time of the house be better employed than in endeavoring to lighten the burdens of the people. ⁵ In 1842, when the practice of the house of commons relative to public petitions, which had been gradually introduced for the purpose of facilitating the proceeding upon them, was revised and reduced to the form of standing orders, an order was added, by which petitions against tax bills were put upon the same footing with other petitions of a public character and allowed to be presented and received in the same manner. ⁶

ARTICLE VI. *Private Petitions and Previous Petitions.*

1148. By the standing orders of both houses of parliament, all private bills are required to be brought in upon petition; ⁷ and there is an order also made in each, at the commencement of every session, ⁸ limiting the time within which petitions for private bills are

¹ Hatsell, III. 233, 234. The foregoing rule was never adopted in any part of this country.

² Hatsell, III. 236.

³ Comm. Deb. VII. 310, 311.

⁴ Hatsell, III. 237, note.

⁵ Hatsell, III. 235, note, 238.

⁶ Hans. (3), LXII. 296, 307; May, 391.

⁷ May, 486.

⁸ Comm. Standing Orders, No. 104.

required to be presented; after the expiration of which, no petition will be received, except by special leave of the house. In consequence of the existence of this order, it is sometimes an important question to determine, whether a petition, which is offered to be presented, is or is not a private petition. On this question, as on others of a similar nature, the speaker gives his opinion, but it is for the house to decide. If the speaker's opinion is that the petition is a private one, the member presenting will withdraw it.¹

1149. If a petition, which has been intrusted to a member to present, is a petition for a private bill, and the time for the presentation of such petition has elapsed, it is necessary, in order to obtain the permission of the house to present it, to present a petition, praying for leave to present a petition for the bill, and stating peculiar circumstances which account for the delay, and justify the application for a departure from the standing orders. On this petition being presented, leave may immediately be given or refused; or the petition may be referred to a select committee, and, upon their report, leave may be granted or refused, either immediately, or after further proceedings upon the report.²

SECTION VI. OF THE PRESENT PRACTICE WITH REGARD TO THE PRESENTATION OF PETITIONS.

1150. The right of petition, — being the only means by which the people have it in their power to concentrate and express their opinions relating to public measures in such a manner as to bring them directly to the knowledge of the legislature, — has been exercised for the last few years, to an extent wholly unprecedented in former times. In the five years ending in 1831, the number of public petitions presented to the house of commons, was twenty-four thousand four hundred and ninety-two; in the five years ending in 1843, the number presented was ninety-four thousand two hundred and ninety-two; and in the five years ending in 1848, was sixty-six thousand five hundred and one.³

1151. It has been seen from the statement above made as to the regular parliamentary course of proceeding in receiving petitions, that the presentation of a petition, even though no subse-

¹ Parl. Reg. LXII. 261.

² May, 532. In one case, leave was given,

on motion, without any previous petition. See Comm. Jour. LVII. 259.

³ May, 389.

quent proceedings were intended to be founded upon it, might, though it did not usually, or to any inconvenient extent, give rise to a debate; it being in the power of the member presenting a petition to speak at length if he chose, on the topics suggested by it, either as preliminary to or after making the motion that it be brought up, and also upon each and every one of the motions that might be subsequently made for the purpose of disposing of it.

1152. These two circumstances, namely, the vast increase in the number and variety of public petitions, and the unlimited and illimitable debate, in which it became the practice to indulge in presenting them, were found to create so many interruptions and delays to the progress of other public business in the house of commons, that it became absolutely necessary to make some attempt to reconcile if possible, the conflicting claims to the attention of the house to which they gave rise.

1153. It was at first attempted to provide a remedy for the inconvenience, by devoting more time to the receiving of petitions. For this purpose, it appears to have become the practice in the year 1830, for those members who had petitions to present, to attend each day in the house at ten o'clock in the morning; the names of the members of the house were then called in rotation by some one of them, and the names of all who did not answer, were struck out; the remaining names, being those of the members present, were then put into an urn and drawn out, one by one, and arranged in a list in the order in which they were drawn. At three o'clock the speaker attended, and as soon as a house was formed, proceeded to call the names as they stood on the list; and as they were called the members presented their petitions and addressed the house, if they thought proper, in the usual manner. At five o'clock, the public business, as it stood upon the order book, commenced; and when this was over, the petition list, if not previously finished, was again taken up and proceeded with until it was completed or an adjournment took place. If the petition list was not gone through with, the members who had not been reached attended again on some other day for the purpose of being put upon the list.

1154. At the commencement of the session in 1833, in order still further to facilitate the presentation of petitions, and the transaction of private business, morning sittings were established from twelve to three o'clock, at which twenty members only were re-

quired to form a house;¹ the public business commencing as before, at five o'clock, and forty members being still necessary to form a quorum for that purpose. At the same time, some restraint was put upon the liberty of speaking on the presentation of petitions, by the adoption of a resolution, which was introductory of important changes in this branch of parliamentary proceedings. By the resolution, it was provided, that when a member offered to present a petition, he should only be allowed to state the contents and prayer of it; the petition should then be brought up to the table by the direction of the speaker, and read by the clerk; and no member should be allowed to speak or put any question relative to such petition, unless it contained matter in breach of the privileges of the house, or was of such a nature, that, according to the rules and orders of the house, it could not be received.² The right of speaking on petitions was thus altogether taken away, except in the two classes of cases referred to, until after they had been received and read; leaving members still at liberty to speak on all the subsequent motions as before. This resolution was limited in its duration to the session, and, it is believed, was not renewed afterwards for more than a single session.

1155. Another important regulation was also subsequently introduced in the same session of 1833, with reference to public petitions. This was a resolution for the appointment at the commencement of each session, of a select committee, "to which shall be referred all petitions presented to the house, with the exception of such as complain of undue returns, or relate to private bills; and that such committee do classify the same, and prepare abstracts thereof in such forms and manner, as shall appear to them best suited to convey to the house all requisite information respecting their contents, and do report the same from time to time to the house; and that such reports do in all cases set forth the number of signatures to each petition; and that such committee have power to direct the printing *in extenso*, of such petitions, or of such parts of petitions, as shall appear to require it."³ The functions of this committee, which has since been regularly appointed, seem to have superseded, in a great degree, the necessity of motions to print.

1156. The morning sittings continued to be held during the ses-

¹ This is the ground upon which Chancellor Kent states, (Kent's Commentaries, I. 234, note,) that in 1833, the number necessary to form a quorum in the house of commons had been reduced from forty to twenty.

² Comm. Jour. LXXXVIII. 10; Hans. (3), XXXVI. 437, 438.

³ Comm. Jour. LXXXVIII. 95.

sions of 1833 and 1834, after which, not being found to be effectual, they were discontinued; nor, after the same period, does it appear, that the resolution of 1833, restricting debate, on petitions, was renewed. On the accession of Mr. Abercromby to the speakership in 1835, the house, upon his suggestion, reverted back to and adopted as a rule the ancient practice, in presenting petitions, according to which the member offering a petition usually confined himself to a statement of the contents and prayer, without undertaking to speak at length upon the subject of the petition. This became subsequently the established practice, with certain exceptions, in which the importance or urgency of the subject required a different course. In 1842, certain resolutions, embodying the understood and established practice of the house, relative to the presentation of public petitions, and the proceedings thereon, were agreed to and declared to be standing orders.

1157. The present practice of the house of commons, with reference to petitions, as regulated by these orders, and the antecedent usage of the house, is as follows. In the first place, it is required by an order of March 20, 1833, that every member presenting a petition to the house should put his name at the beginning thereof;¹ which is always printed with the petition, in the reports of the committee on public petitions.

1158. The members, who are desirous of obtaining precedence in presenting the petitions intrusted to them, attend at the table of the house, at half-past three; or, when the house meets at an unusual hour, at a quarter of an hour before the time appointed for the speaker to take the chair; they then ballot for precedence, and their names are entered on a list accordingly.

1159. The time appropriated for presenting petitions is at the conclusion of the private business. At this time, the speaker calls the names of the members separately as they stand on the list, and they then present their petitions. When, however, petitions relate to any motion or bill set down for consideration, they may be presented before the debate commences, at any time during the sitting of the house. In the case of a bill, they should be offered immediately after the order of the day for proceeding on it has been read, and before any question has been proposed.²

1160. When a member offers to present a petition, not being a petition for a private bill, or relating to a private bill before the house, he is required to confine himself to a statement of the

¹ Hans. (3), LXXIV. 714, 715.

² May, 392.

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

1161. When a petition, on being offered to be presented, is thus opened to the house, it is the duty of the speaker, provided the petition contains nothing in breach of the privileges of the house, and is also proper, according to the rules and usual practice of the house to be received, to direct it to be brought to the table at once, and there read by the clerk, if required, without allowing any debate, or any member to speak, upon or in relation to such petition.

1162. If a petition so presented relates to any matter or subject, which the member presenting it is desirous of bringing before the house, and on which he states it to be his intention to make a motion, he may then give notice that he will make a motion, on some subsequent day, that the petition be printed with the votes.

1163. If any such petition complains of a present personal grievance, for which there is an urgent necessity for providing an instant remedy, the matter contained in it may be brought into immediate discussion, on its being presented.

1164. All other petitions, after having been ordered to lie on the table, are, without any question being put, referred to the committee on public petitions. The duty of this committee is to classify, analyze, and make an abstract of the petitions so referred to them, and, from time to time, report thereon to the house. The reports of the committee are printed twice a week, and point out, under classified heads not only the name of each petition and of the member by whom it was presented, but the number of signatures, the general object of each petition, and the total number of petitions and signatures, in reference to each subject; and whenever the peculiar arguments and facts, or general importance of a petition require it, such petition is printed at full length in the appendix.¹

1165. From the foregoing statement of the existing practice of the house of commons relative to public petitions, it seems clear, that while measures are taken to bring the popular voice as expressed by petitions to bear on the legislature, in the only manner in which it can be legitimately entitled to have any effect, that is, by the number and character of the petitioners, and the strength

¹ May, 391, 392.

and pertinency of their representations and arguments; no restriction is put upon debate, in any case, in which it is really necessary. It should be recollected, also, that the restricting of debate upon a petition does not restrict it upon the subject-matter of the petition. A petition is not, in itself, introductory to legislative measures. Every resolution or bill must commence with a distinct motion, which may be made without reference to any petition, but, in proposing which, a member is at liberty to enforce the claims of all petitioners, who have presented their views to the house.¹

1166. In the house of lords, there has been no such increase in the number of public petitions, as has taken place in the house of commons, within the last few years; no inconvenience has arisen from the debates which have occurred on presenting them; and consequently no necessity has been felt for the introduction of any general system of classification and publicity.²

1167. The same causes which have induced the house of commons to adopt the above-described regulations, with regard to petitions, have also operated in this country, and have led to the establishment of certain rules in the house of representatives, in congress, by which it is provided that petitions shall not be debated, unless the house shall otherwise decide, on the day on which they are presented, and that members, having petitions or memorials to present, may hand them to the clerk, with an indorsement thereon of their names, and of the reference or disposition of the same. In the latter case, the petitions or memorials are to be entered on the journal, subject to the control and direction of the speaker. Whether the above or similar rules may become necessary, to facilitate the proceedings on petitions, in any other assembly, will of course depend on the pressure of the business which ordinarily comes before it.

SECTION VII. OF SUBSEQUENT PROCEEDINGS ON PETITIONS.

1168. The proceedings on a petition, subsequent to its presentation and reception, depend partly upon the subject-matter, and partly upon the feeling with which it is regarded by the house. If the subject is one upon which the house can act at once, and is ready to do so, it may proceed immediately with the consideration of it; otherwise, the petition may be ordered to lie on the

¹ May, 391.

² May, 389.

table, either generally or until a specified time, or a future day may be assigned for its consideration. In the latter case, the petition is an order of the day for the day so assigned, and to be proceeded with and considered accordingly.

1169. When a petition is taken into consideration, whether presently, or at a future time assigned, if it alleges the existence of facts, which require to be investigated, the inquiry may be either by the house itself, or before a committee to whom the petition may be referred for the purpose. In both cases, the petitioners are to be heard, with their witnesses and evidence, together with parties adversely interested, if they desire it, in the manner already described in the fifth chapter of this part.

1170. If the hearing takes place before the house itself, it may be followed by proceedings proper for the immediate disposition of the matter, in the form of an order or resolution, according to the nature of the subject, expressing the opinion of the house, or directing, or permitting something to be done, as, for example, that a bill be brought in agreeably to the prayer of the petitioner.

1171. If the petition is referred to a committee, by whom the subject of it is heard and investigated, the committee proceeds with the investigation, and reports upon the matter, as in other cases; and, upon their report, the house institutes such further proceedings as may be necessary and proper.

1172. Petitions may be disposed of, as we have seen, by the house itself acting directly, and without the intervention of a committee; in which case, out of the great variety of motions that may be made for the purpose, those most usually adopted lead to the same disposition of the subject with the resolutions reported by a committee, and, therefore, require no further separate notice. But though petitions may thus be disposed of, the most common course is to refer them, in the first instance, to a committee. The form in which this reference takes place in parliament, and in this country when any form is made use of, requires the committee to examine the matter of the petition and to report the same, with its opinion thereupon to the house.¹ In general, petitions are referred in our legislative assemblies, simply, and without any words expressive of the committee's authority; in which case it will have the authority above mentioned, together with such additional power as may be specially conferred upon it, and such other as may belong to it by the rules and orders of the assembly.

¹ J. of H. I. 129.

1173. Under the authority above mentioned, or of that which results from the simple reference of a petition, a great variety of reports, depending, of course, upon the nature of each petition, may be made, but they may all be included in the three different classes of, first, reports in favor of granting the prayer of the petitioners; second, against granting the prayer; or, thirdly, declining to grant it, but without concluding the petitioners. These reports are considered and agreed to like other resolutions, and may be amended in such manner, as, for example, so as to substitute one for another, as the assembly may direct.

1174. If a resolution is agreed to for granting the prayer of the petitioners, and this is of such a nature that it can only be effected by passing a bill in their favor, the assembly may thereupon take the necessary steps for that purpose; or the committee may be authorized either specially or generally to report a bill at once. If a resolution is agreed to against granting the prayer of a petition, this is a regular judgment of the assembly upon the claim which effectually precludes its being opened or set up afterwards. If the assembly agrees to a resolution in the third form, it is usually expressed in these terms, namely, that the petitioners have leave to withdraw their petition. In this case the petition, although not granted, is not refused, but may be withdrawn and presented again.