

1876.  
NEW ZEALAND.

## INTRODUCTION OF HARBOUR BILLS, ETC.

(MEMORANDUM BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND AN OPINION BY MR. WHITAKER, RELATIVE TO THE MANNER OF THE INTRODUCTION INTO THE HOUSE OF REPRESENTATIVES OF CERTAIN HARBOUR BILLS, AND BILLS AFFECTING LOCAL AND PRIVATE INTERESTS.)

THE Speaker of the House of Representatives presents his compliments to Mr. Whitaker, and requests his opinion on the following subjects:—

A question has arisen as to what may be considered as Bills which should originate in a Committee of the whole; and, secondly, what may be considered as Private Bills, directly interfering with the private property of individuals.

Under the category of Bills respecting which there is a doubt whether they should or should not originate in Committee, there are now several Bills connected with harbours before the House of Representatives.

Referring to "May's Parliamentary Practice" (edition of 1873), page 476, Bills concerning harbours have been withdrawn, and the same (designated No. 2) originated in Committee, as may be seen in 1852, 12th May, where it was ordered that the "House will immediately resolve itself into a Committee to consider of enabling the burghs of Scotland to maintain and improve their harbours."

Several of the Bills before the House have provisions vesting certain Crown lands in Harbour Boards; certain moneys which would go into the Colonial Treasury are authorized to pass into the hands of Harbour Boards; special rates are authorized to be levied for harbour improvements; certain powers are given to enter upon and take lands for purposes of harbour works. The question arises, Should not such Bills originate in Committee of the whole?

Also, should not many of the Bills now before Parliament be regarded as Private Bills, and be treated as such—*e.g.*, Drainage Bills.

The following is a list of Bills already before Parliament respecting which there is a doubt. Copies of them are herewith forwarded for perusal and opinion.

*List of Bills, the manner of the introduction of which into the House is doubtful.*

Thames Harbour Board.  
Lakes Ellesmere and Forsyth Reclamation and Akaroa Railway Trust.  
Wellington Harbour Board.  
North Otago Harbours.  
Napier Harbour Board.  
Bluff Harbour Board.  
Wanganui Harbour Board and River Conservators.

House of Representatives, 17th August, 1876.

WILLIAM FITZHERBERT,  
Speaker.

### RE HARBOUR BOARD BILLS, ETC.

MEMORANDUM for the HONORABLE THE SPEAKER, HOUSE OF REPRESENTATIVES.

THE first question is this: Is it necessary that the proposal to introduce a Harbour Bill, of the character of those specified in the Speaker's memorandum, should be first considered and agreed to in a Committee of the whole House?

It appears to me that it is required by the Standing Orders in reference to five of the Bills.

Our Standing Order No. 294 provides, that "No Bill relating to trade, or the alteration of the laws concerning trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the whole, and agreed to by the House."

This Standing Order is in precisely the same words as Standing Order No. 345 of the English House of Commons.<sup>(1)</sup> English precedents therefore are strictly applicable.

The precedent referred to by the Speaker in his memorandum, in reference to the Burghs Harbours of Scotland, so far as can be gathered from the House of Commons Journals,<sup>(2)</sup> is exactly in point. There are no means of ascertaining here what were the exact provisions of the Scotch Burghs Bill; but I have no doubt they were similar to those dealing with other harbours in the United Kingdom, and also similar in many respects to the provisions usually inserted in Harbour Bills in this colony.

<sup>(1)</sup> Burke's Decisions, p. 399.

<sup>(2)</sup> H. C. Journals, 12th May, 1852.

On reference to the House of Commons Journals,<sup>(1)</sup> the following entry will be found:—

“The Order of the Day being read for the second reading of the Burghs Harbours (Scotland) Bill,

“And notice being taken that the Bill, being a Bill relating to a matter of trade, ought to have commenced in a Committee of the whole House,

“Ordered, That the said Order be discharged.

“Ordered, That the Bill be withdrawn.”

This affords a precedent for the mode of dealing with Harbour Bills irregularly commenced.

On further reference to the Journals, <sup>(2)</sup> it will be found that the Bill was subsequently initiated in a Committee of the whole House.

There are no precedents of the same character of a more recent date. This probably arises from one or two reasons, or from both.

(1.) Because it was clear that such Bills must originate in Committee, and that course was always subsequently adopted.

(2.) Because an Act of Parliament passed in 1861, amended in 1862, provided another course to be adopted in reference to the initiation of Harbour Bills. By these Acts the Board of Trade is authorized to grant what are called “provisional orders,” by which the construction of works, the borrowing of money, the levying of rates, &c., are provided for as in our Acts, except that the Harbour Board Bills referred to by the Speaker do not authorize the levying of rates; but this is not material, because, if the Bills contained such a provision only, it does not appear that it would be therefore necessary to initiate them in Committee.<sup>(3)</sup>

The Acts referred to require that before the provisional orders become law they must be confirmed by an Act of Parliament.

The first of these confirmatory Acts was passed in 1862, and from time to time subsequently other confirmatory Acts have been passed, on some occasions altering the provisional orders.

The last Act was passed in 1875.

On reference to the Journals of the House of Commons,<sup>(4)</sup> it will be found that these Acts have been invariably originated in Committee of the whole House: the first precedent is in 1862, the last in 1874. The House of Commons Journals of 1875 are not yet in the Library.

It appears therefore to be clear that, as a general rule, at all events Harbour Bills, as Bills relating to trade, must be originated in Committee of the whole House.

To apply the principle involved to the particular cases under consideration, it appears that the following Bills are within the rule:—

1. Thames Harbour Board.
2. Wellington Harbour Board.
3. Bluff Harbour Board.
4. Wanganui Harbour and River Conservators Board.
5. North Otago Harbours.

The Napier Harbour Board Bill has for its object the endowment of the harbour with certain land unconnected with the harbour, and in no way affects the harbour itself. It is not therefore open to the same objections as the other Harbour Bills.

The second question is, Are any of the Bills specified in the Speaker's memorandum Private Bills?

Standing Order No. 292 (N.Z.) defines Private Bills to be “Bills which are promoted for the private interest of individuals or companies, or any which by their provisions *directly interfere* with the private *property of individuals*.”

There is no corresponding Standing Order amongst those of the House of Commons, but May gives a definition different from and wider than this, so that English precedents are not so readily applied as to the Harbour Bills and others relating to trade.

The question then comes, Are any of the Bills referred to by the Speaker open to objection on this ground?

The Lakes Ellesmere and Forsyth Reclamation and Akaroa Railway Trust Bill is, it would appear, clearly so. Sections 22 and 23 expressly provide for taking private land compulsorily and granting compensation.

1. The Thames Harbour Board Bill is not open to objection as interfering with the private property of individuals.

2. The Wellington Harbour Bill may, if it is intended to affect private water frontages, or take land. See Sections 79 and 87.

3. The Bluff Harbour Bill is clearly open to objection on this ground. See Sections 25, 26, 29, and 30.

4. Also the Wanganui Harbour Board Bill. See Section 41.

5. The objection does not apply to the Napier Harbour Bill, nor the North Otago Harbours Bill.

23rd August, 1876.

FREDK. WHITAKER.

<sup>(1)</sup> H. C. Journals, 20th March, 1852.

<sup>(2)</sup> H. C. Journals, 12th May, 1852.

<sup>(3)</sup> May's Parliamentary Practice.

<sup>(4)</sup> H. C. Journals, vol. 107, p. 109, and vol. 128, p. 152.