improvement of our laws—to take the gold, if there be any, and to throw aside the dross. It is for a responsible Ministry to frame their measures with as close an adherence as possible to the principles which they hold, and with due regard to the consideration as to what they can carry through Parliament.

I believe that a measure of reform, such as I have indicated, could be carried by a Ministry who would undertake the task with courage, and give to its support their full power. But to give to a Ministry the needful stimulus to action, and the courage to enable them to act with vigour, there is nothing so efficacious as a clearly-pronounced public opinion.

Grievous and general are the complaints in private respecting the condition of our Corporation, and frequent the declarations that reform is needed. Let those who are animated by these feelings give public expression to them—let the voice of the public opinion of Dublin be heard on this subject—let it enter the council chamber of the Ministry—and there may then be some hope of accomplishing the object which we have in view.

IV.—*Suggested Improvements in Private-Bill Legislation.* By John Norwood, Esq, LL.D., Barrister-at-Law.

[Read Tuesday, 16th February, 1875.]

BILLS for the particular interest or benefit of individuals, public companies, corporations, parishes, cities, counties, or other localities, as distinguished from measures of public policy in which the whole community is interested, are treated in Parliament as "Private Bills," and their division into "Local and Personal Acts" was first introduced into the Statute-Book in the year 1798. In considering public measures, Parliament acts strictly in its legislative capacity; but in passing private bills it exercises judicial as well as legislative functions. It is desirable, in considering the conduct of private bills, to remember the analogy the proceedings bear to those of courts of justice, "And," remarks Sir Erskine May in his *Parliamentary Practice*, "the solicitation of a bill in Parliament has been regarded by courts of equity so completely in the same light as an ordinary suit, that the promoters have—in certain cases—been restrained by injunction from proceeding with a bill." A recent instance of the exercise of this jurisdiction was afforded by the granting of an injunction by the Court of Chancery in Ireland, to restrain the Commissioners of the Township of Kingstown from proceeding further with a bill for promoting local improvements, because its promotion was held to be an evasion of the provisions of "The Towns' Improvement Act, 1847."

Great has been the increase, during the present century, in public legislation; and the extension of the private-bill system, consequent on the novel and ever-growing requirements of an highly civilized community, in a most inventive age, has been no less remarkable. For the conduct of legislation in private bills a somewhat complicated

code of rules and regulations, embodied in the Standing Orders of the Houses of Lords and Commons, has been gradually elaborated, requiring for their interpretation and working the employment of "experts"—Parliamentary agents, counsel, and other professional persons—and entailing on the promoters and opponents of private bills costs and charges, so heavy as to form serious obstacles to social progress and local improvements. The mere enumeration of the subjects-matter of the two classes into which private bills are, for standing orders purposes, divided by the Houses of Parliament, shows how deeply every member of the community is interested in obtaining simpler and less expensive methods for procuring Parliamentary sanction for the legal effectuation of the thousand and one progressive improvements necessary in a great, enterprising, wealthy, and highly-organized manufacturing community such as is ceaselessly inventing and toiling in the British Islands.

In the first class we find included, *inter alia*, bills relating to burial grounds, churches, chapels, corporations, charters; paving, lighting, watering, cleansing, and improving of cities and towns; the incorporation of public companies, crown, public, or charitable property, county rates, institutions, buildings, etc.; ferries, fisheries, drainage, improvement, etc., of lands; letters patent, local courts, markets; the maintenance and employment of the poor, police, public officers and magistrates, and the amending and continuance of the acts in this or the second class.

These form, of themselves, an immense variety of important matters for parliamentary consideration; but when we add thereto the enumeration of bills of the second class, some notion, however inadequate, may be formed of the vast interests involved and, directly, affected by private-bill legislation. The second-class bills deal with the construction of aqueducts, bridges, canals, docks, drainage works, reclamations, harbours, ports, piers, and other works connected with navigation, railways, reservoirs, sewers, tramways, tunnels, roads, streets, etc.

But the oppressive expenses incident to the carriage of private bills not only unduly and unnecessarily, as we shall see, onerates the promotion of every project actually introduced into parliament for social and local improvements, but they exercise the evil effect of preventing the introduction of hundreds of such desirable measures. It should not be forgotten that the difficulties and expenditure increase in a ratio directly as the distances from the seat of the legislature where the inquiries are held; and consequently the heavier burdens and obstructions to improvement operate unjustly as against the more remote localities and people, who are less able to endure them than those nearer to the wealthy metropolis of England. The cost of the carriage of private bills bears especially hardly on the inhabitants of Scotland and of Ireland.

Parliament, impressed by the necessity for affording more facilities for, and lessening the costs of, promoting such measures, has, from time to time, made important modifications in the mode of procedure. For example: in old times the majority of private bills, when they involved the imposition of fiscal burdens on the people, were, by the

privileges of the Commons, initiated in that House; but in 1849, and further in 1858, the House of Commons agreed to important relaxation of their privileges as far as relates to tolls, charges, fees, and in the case of private bills for local or personal Acts, and, consequently, certain private bills can now be originated in the House of Lords as well as in the House of Commons, to the saving of time and expense of promoters, and lightening the duties of legislators.

Another important change was the enactment of "general-statutes," adapted to various classes of objects, of the provisions of which public Acts parties can avail themselves, and thus obviate the necessity of applying to Parliament for private bills.

The Commissioners'-clauses, the Gas-works'-clauses, Tramways' clauses, Railways' clauses, and Towns' Improvement clauses Acts, are well-known examples of this important principle of modern legislation.

The legislature, although zealously guarding its privileges and its judicial and legislative functions, introduced in recent years another valuable principle for facilitating and cheapening private bill legislation by the adoption of the provisional order system (Local-Government, Ireland, Act, 1871, and Local Government, Ireland, Act, 1872), constituting boards by whom important powers of local inquiry and provisional legislation are exercised. These Provisional Orders require to be confirmed in some instances by the Queen in Council (and in Ireland by the Lord Lieutenant in Council (*vide* Tramways' Acts, 23 & 24 Vic., cap. 152; and 24 & 25 Vic., cap. 102), and in other cases they acquire validity only on being confirmed by public act of parliament.

This was a step in the right direction, and most beneficial to Ireland and Scotland, and places in England distant from London. One signal advantage of this improvement is the holding of the inquiry at the *locus in quo* of any proposed measure, and thus ensuring a saving of cost, and ensuring more complete and satisfactory investigation. But there are serious defects in the Provisional Order system requiring amendment.

1st. The tribunal is unsatisfactory. The gentlemen who hold the inquiry, who hear the witnesses and the merits of the case, are not the persons who, ultimately, decide on the propriety of granting or refusing the provisional-order; the Board possesses insufficient powers.

2nd. There is no uniformity of procedure or in the conduct of the inquiries. The persons appointed to hold the investigation may never have held a judicial inquiry before, may be ignorant of judicial proceedings—of the laws of evidence, of legal forms—and they cannot enforce the attendance of witnesses resident more than ten miles from their place of abode (sec. 7).

3rd. The tribunal lacks the dignity, exactitude, and sanction of a court of justice, and there are no general orders or regulations for its guidance. The nameless functionary who presides is, practically, a law unto himself.

4th. From defects in the Acts—which are somewhat carelessly

framed—constituting the tribunal, full relief cannot always be given, and thus double costs and trouble are necessitated; and, lastly,

5th. There is not finality in the decision.

Two examples, from actual experience, will illustrate the defects:

(*a*) A system of street-tramways was requisite for Belfast, and the Corporation of that great commercial centre conferred with a company willing to undertake the work. A full inquiry was held in Belfast, all parties interested were heard, and finally, like good men of business, agreed on the terms and conditions under which the lines of tramway should be laid down and worked. The clauses, as settled by universal consent, were embodied in a provisional order, which was duly engrossed; and when about to be laid before his Excellency the Lord Lieutenant in Council for his sign-manual, it was found by the Attorney-General of the day that the Irish Tramways'-Acts, under which the order was about to be made, were so defective that several of the most important clauses could not be sanctioned; and, although all persons interested were agreed as to their propriety and necessity, they were struck out of the provisional order—which, thus mutilated, was granted; and the promoters were forced to go to parliament in the following session, and incur all the expenses of a private bill, for the purpose of validating the clauses so struck out of the provisional order.

(*b*) The Town Council of Dublin found it necessary, from the experience of several years, and the extended area of water-supply, to seek for enlarged powers and amendments in the Water Works' Acts, and the construction of additional works. They presented a petition under the 34 & 35 Vic., cap. 109, "The Local Government Board Ireland, Act, 1871;" and 35 & 36 Vic., cap. 69, "The Local Government Board, Ireland, Act, 1872," in which they stated all their requirements. The Local Government Board directed an inquiry, which was held in the City Hall, and all parties interested having been by public advertisement apprized of the holding of same, and invited to attend, the inquiry lasted several days. The Town Council fully proved their case, and the petitioners against the provisional-order sought were fully heard. After grave consideration, the Local Government Board determined that they were not empowered, under their statutes, to grant certain of the required provisions, which were accordingly eliminated from the order; and the Town Council, who had, fortunately, taken the precaution to serve the necessary parliamentary notices, and deposit a private bill, embodying similar clauses as were prayed for in the provisional-order, were forced to incur all the costs of a parliamentary contest to secure the complementary clauses left out of the order, and the very persons who had been fully heard before the Local Government Board Inspector, fought the case out before the select committee of the House of Lords, and would have renewed the fight before the select committee of the House of Commons, but that they were excluded on standing orders from opposition. Nay, more, the very authority and powers of the Local Government Board itself put in issue by the petitions filed by the opponents; and the officials from that department had to be summoned from Ireland to

sustain by their evidence—oral and documentary—the validity of their proceedings. It is apparent that it would have been less expensive for the Town Council to have at once sought for a private bill. A single cross-grained individual, or ill-conditioned board, may, by petitioning against a provisional order, render all expenditure and previous inquiry before the Local Government Board abortive. Again, the Town Council feeling they had serious cause of complaint against a neighbouring sanitary authority for pollution of the source of the Vartry water supply by defective drainage and sewerage, presented a petition praying relief A costly and exhaustive inquiry was held at Roundwood, and the Local Government Board were subsequently advised that the granting of the relief sought would be *extra vires*, and the petitioners were left without remedy. Similar difficulties are perpetuated in the sections of the Public Health (Ireland) Act, 1874 (37 & 38 Vic. cap. 93) relative to provisional-orders, although some defects have been remedied.

But, notwithstanding the means so adopted by parliament to facilitate legislation, by provisional order and otherwise, the private-bill business, for the reasons hereinbefore mentioned, continues apparently as large as ever. This is evident from the following table,

SHOWING THE NUMBER OF PRIVATE BILLS DEPOSITED IN THE HOUSE OF COMMONS, ON OR BEFORE THE 21ST DECEMBER, FOR THE FOLLOWING SESSIONS, VIZ. :

Years.	No. of Bills.
1866	633
1867	317
1868	228
1869	212
1870	240
1871	275
1872	304
1873	334
1874	*281
1875 [the present Session]	†262
Total in 10 years	3,086
Being an average annually of over	308

The costs and charges paid by corporate bodies, under the present system of private bill legislation, in promoting and opposing bills, is very large.

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* From the Parliamentary Returns obtained by Sir Charles Forster, those bills were thus disposed of : Withdrawn, 12 ; unopposed, 145 ; 143 were sent before Select Committees, consisting of 29 groups, composed of four M.P.'s (with referees). The committees sat in the aggregate for 206 days, or an average of a fraction over 7 days each committee ; and decided that the preambles were proved in 65 cases, that the preambles were not proved in 12 cases ; and they referred 49 bills back to the Committee of Selection, as being unopposed. Of these bills, 15 related to Ireland, 11 to Scotland, and about 24 to the Metropolitan district. It is unnecessary to analyse the returns of other years.

† Of this number, 22 relate to Ireland, and 23 to Scotland.

AMOUNT PAID BY THE CORPORATION OF DUBLIN, FOR PARLIAMENTARY COSTS, FOR TEN YEARS, FROM 1ST SEPTEMBER, 1863, TO 1ST SEPTEMBER, 1873, WAS NO LESS THAN £16,581 5s.

	Parliamentary Costs. £	s.	d.
Year ended 31st August, 1864 . .	2,713	5	3
" " 1865 . .	1,653	2	11
" " 1866 . .	2,707	4	4
" " 1867 . .	1,609	18	11
" " 1868 . .	1,438	8	3
" " 1869 . .	859	6	11
" " 1870 . .	2,223	12	8
" " 1871 . .	772	0	1
" " 1872 . .	1,680	11	0
" " 1873 . .	923	14	8
	£16,581	5	0

The Corporation, during the period 1861–71, promoted 12 bills; but were compelled, as other corporate bodies are, in defence of the ratepayers or of their privileges, to petition against the numerous (60) bills promoted by speculative companies or enterprising engineers, many of which, if suffered to pass unopposed, would have been highly injurious to the city.

The Belfast Corporation, in 1870, '71, '72, and '73, opposed in parliament, bills of the Belfast Harbour Commissioners, Water Commissioners, Gas Company, and Central Railway Company, and paid respectively £436, £214, £719 (say £1370), and promoted in 1873 the Local-Government Confirmation Act, and the Corporation-Gas Act, and paid £56 1s. 2d. and £899 8s. 6d., together £955 9s. 8d., thus making the average cost of each bill about £400.

Perhaps as signal an instance as I could adduce of the oppressive and obstructive manner in which the present system affects towns, is afforded by the case of the Borough of Newry. The Town Commissioners, in 1871, promoted and obtained an act entitled "The Newry Improvement and Water Act" (34 & 35 Vic. cap. 98), and the gross amount of the taxed costs was no less than £8,631 13s. 7d., that is more than four times the whole amount, £1,837 15s., of rates levied within the borough in 1871, and upwards of one-fourth of the entire valuation of the town, £30,600; and the ratepayers had afterwards to carry out the water and other works authorized. I say, therefore, that the present system is prohibitory of improvement.

That the Irish people are deeply interested in the amendment of the system, is evident from the annexed table.

THE NUMBER OF LOCAL ACTS PASSED, CONNECTED WITH IRELAND, FROM 1860 TO 1874, INCLUSIVE, WERE AS FOLLOWS:

Year.	No.		No.
1860 . .	27	1868 . .	20
1861 . .	26	1869 . .	12
1862 . .	16	1870 . .	17
1863 . .	22	1871 . .	22
1864 . .	25	1872 . .	18
1865 . .	33	1873 . .	21
1866 . .	25	1874 . .	22
1867 . .	14		
		Total . .	320

If the cost of each of these acts were only £100, the total amount would represent a capital sum spent in parliamentary costs of £32,000; and if, as perhaps may be a fairer average, the cost reached £500 each; the aggregate sum reaches the enormous amount of £160,000 disbursed during the decennial period.

What, then, are the most feasible remedies? The cardinal points to be observed are, that the enquiry should be held within the district and that the cost of bills should be reduced. There is no doubt that in the amendment of the system which has been gradually elaborated during the past half-century, the passive, but powerful, resistance of those averse to change, and of the immense number of persons having vested interests, must be encountered.

As to the first point, of the justice of holding judicial enquiries in the district, the principle is as old as English law. The judges hold their assizes for that reason in the several counties, and the chairmen of counties, and the county court Judges bring home the administration of the Law to every man's door; the propriety and convenience of the principle was admitted by the House of Parliament when they sanctioned (by the 31 & 32 Vic. cap. 125, "The Parliamentary Elections Act") the holding of enquiries into the validity of election for M.P.'s,—which had previously been the subject for the investigation, at enormous cost, by select parliamentary committees—by the judges of Her Majesty's superior courts within the borough or county where the election took place.

The holding of the enquiry within the district affected by a private bill will, of course, largely reduce the costs. One proposal has found favor with many reformers who desire, in affecting improvements, not to deprive parliament of its present control over private bill enquiries. They propose, in order to facilitate the progress of bills and lighten the labours of the members of both Houses, and reduce the expenses of promotion, that in place of the merits of an opposed bill being considered first by a select committee of the Commons, and then re-investigated by a Committee of the Lords, that a joint committee of both Houses should hold one enquiry. There is a precedent for the joint action of the two Houses to save expense and facilitate business, in the standing order which associates the examiner of the House of Lords with the examiner of the House of Commons in the investigation as to compliance with standing orders, by petitioners for bills.

The present machinery for lodgment, etc. of private-bills would be left untouched by the arrangement we are now considering. It is proposed that the select joint committee, so to be appointed, attended by their clerk and shorthand-writer, shall, at some convenient period, proceed to a central place within or adjacent to the district, and there hold the enquiry, and report to parliament their finding. In Ireland, Dublin, Cork, Belfast, and Galway, would be convenient centres. The opportunity which would be thus afforded to the joint committee to inspect the *locus in quo* is important, and the necessity for bringing scores of witnesses, with documents, etc., to London, and there maintaining them for weeks at great cost, would be obviated, while the trouble and travelling expenses of the four mem-

bers of the committee, and their officials, would be no greater than those incurred by Her Majesty's judges of assize. The time for holding such enquiries, and the convenient grouping of bills from the same district, are mere matters of detail, and could be readily arranged.

A second proposal is that the private bill enquiries should be held in the several counties in England, before the county court judges; in Ireland, before the chairman of counties; and in Scotland, before the sheriffs. It is contended that as these functionaries are eminent lawyers, trained to judicial investigations, acquainted with the laws of evidence, and the localities, their courts would, when they were empowered and guided by a well-arranged code of rules, form excellent tribunals for satisfactorily dealing with private bills at a reasonable cost. The previous procedure as to private bills, in the event of this plan being carried out, would be, with some modifications, similar to the present, and the chairmen and other judges would report to parliament, as in the case of election petition enquiries under the act of 1868.

The third proposal would require the lodgment of plans, the insertion of Gazette, and other notices of applications for private-bills to be made as at present, but would refer the investigations into the merits of the bills to the judges of the superior courts in England, Scotland, and Ireland, adopting for the purpose, "*mutatis mutandis* similar machinery to that in the act of 1868 for amending the laws relating to election petitions." The advocates for this suggestion rely on the satisfactory working of that act, the dignity and decorum of the court, the character, position, and learning of the judge, the convenience of holding the enquiry in the locality, the comparatively small cost to the nation of the tribunal, and the saving of expense to promoters and opponents of bills. The precedent is, undoubtedly, a good one, and the adoption of the suggestion would be popular at least in Ireland, as it would, in a measure, prevent the necessity for what appears to be an obnoxious scheme—the reduction in the number of the judges of the superior courts.

I have now laid before you all the information I have been able to compress within the time allotted to me on this most important subject, and I shall be amply rewarded if this paper cause useful discussion, and, ultimately, lead to a reform of the present expensive and cumbrous system of legislation on private bills.