



Private Bills in Parliament: House of Commons Background Paper

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Private legislation is legislation which affects specific groups of people or localities, unlike public legislation, which affects all people equally. It proceeds through the Houses of Parliament in a similar manner to public legislation, but there are a number of additional elements to the process.

Private legislation is promoted by persons or organisations outside Parliament, who must use one of a small group of registered parliamentary agents who have demonstrated knowledge of the area. Those who will be specially affected by the bill have the right to petition against it. Private bills can start their progress in either the Commons or the Lords, but must pass through both Houses before becoming law. Each House appoints Examiners to examine private bills for compliance with the standing orders for private business.

The parliamentary stages of private legislation are tightly guided by standing orders. At Committee stages, both promoters and opponents of the bill may be heard by a Committee on Opposed Bills. (A Committee on Unopposed Bills considers the bill when no opposition exists.)

In the 19th century, a majority of legislation passed by Parliament was private business. The principal categories were public works and transport schemes (railways, waterways and harbours), permissions for divorce, and the settlement of estates. Today, the last of these is rarely required; and the need for the first two has been all but removed by the Transport and Works Act 1992, and the Marriage (Prohibited Degrees of Relationship) Act 1986.

Private bills today are mainly promoted by local authorities and other public bodies, seeking extensions to their powers. Around two new private bills are promoted in a typical Parliamentary session, but as they may take several sessions to pass through Parliament, there are between six and ten active at any one time.

The Scottish Parliament has separate legislative procedures for private bills having effect in Scotland.

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1 Private Bills

Erskine May characterises [private bills](#) as follows:

Private legislation is legislation of a special kind for conferring particular powers or benefits on any person or body of person – including individuals, local authorities, companies, or corporations – in addition to or in conflict with the general law.¹

Private bills are promoted by organisations (or individuals) which want Parliament to permit them to do something that they may not currently do, which affects only specific people or localities and not the general public.

Private bills were common in the 19th century. They were principally used for the construction of railways, docks, harbours, and gas and water systems; and for ‘personal’ matters such as divorces and the division of inheritance. In the 19th century there were far more private bills than public bills, whilst now the opposite is true. The majority of private bills today are promoted by local authorities or other statutory bodies, seeking to change their powers in order to better fulfil their functions. Private bills related to transport works were presented until the late 1980s, but these are now legislated for by a system of Orders made under the [Transport and Works Act 1992](#) (see below). The most recent ‘personal’ legislation, where Parliament gave permission to marry to a particular couple, was passed in 1987.² This class of legislative activity has also decreased, as a result of the [Marriage \(Prohibited Degrees of Relationship\) Act 1986](#).

The procedure for passing private bills through Parliament is similar to that for public bills. Each bill must be approved by both Houses of Parliament, and each has three Readings and a Committee stage. The key difference is that private bills are promoted by people outside Parliament – either organisations or individuals – and the promoters must pay fees and employ Parliamentary agents in order to present the bill. Also, opponents can petition against a private bill and appear before a committee appointed to consider the private bill.

Private bills currently before the House can be viewed on [the Parliamentary website](#), using the drop-down menu to select ‘Private Bills’.

Private bills should not be confused with *private Members’ bills*. These are a form of public business and are discussed in the Library Standard Note on *Public Bills*.³

1.1 Preliminary Stages

Bill promoters must first present a petition to both Houses of Parliament. These petitions must be presented to Parliament on or before 27th November each year. They must also advertise the promotion of the bill in newspapers and official gazettes. All people whose land is affected by the bill should be notified, and any relevant plans and cross-sections should also be deposited in Parliament. The process is illustrated in Appendix A.

Copies of the bill must be made available to Members and Officers of each House through the Vote Office. Members of the public may purchase copies of bills from the parliamentary agents, who are the legal representatives of the promoters of the bill for the purpose of

¹ *Erskine May*, 24th edition, p921

² Two acts were passed in 1987: the *John Ernest Rolfe and Florence Iveen Rolfe (Marriage Enabling) Act* (1987 c.1), and the *George Donald Evans and Deborah Jane Evans (Marriage Enabling) Act* (1987 c.2).

³ House of Commons Library Standard Note, [House of Commons Background Paper: Public Bills](#), SN/PC/6507

dealing with Parliament. They are not available from The Stationery Office. All private bills are also available on the Parliamentary website.⁴

1.2 Parliamentary Agents

The drafting of private bills and their piloting through Parliament must be undertaken by one of a small number of registered parliamentary agents, usually referred to as ‘Roll A Agents’. One or more agents’ clerks assist the actual agent, who is often one of the partners of a law firm. A [list of Roll A Agents](#) is available on the parliamentary website.

One of the duties of an agent is negotiating with objectors to the bill, both before and during its parliamentary progress. It will generally be both cheaper and swifter to deal with such opponents directly before employing counsel to argue the case in an opposed private bill committee.

1.3 The Examiners: compliance with Standing Orders

A separate set of Standing Orders for private business exists in each House, though they now make almost identical provisions.⁵ Every Petition for a bill must comply with the conditions laid down in these Orders, and the officials who ensure this are the Examiners, who include the Clerk of Bills in the House of Commons and the Clerk of Private Bills in the House of Lords. Each Examiner may act for either House. The Examiner’s scrutiny begins on 18 December each year, and the promoters of a bill or their agents must appear before the Examiners.

If, as a result of this, the Examiners consider that the requirements of Standing Orders have not been complied with, the petition is referred to the Standing Orders committees of both Houses. The Commons Standing Orders Committee is composed of eleven Members (the House of Lords Standing Orders Committee has eight members), and it may enquire further into the matter and report to the House. Whilst the Examiners’ report is conclusive regarding the facts of the Bill’s status, the Standing Orders Committees also take into account the public and private interests which would be affected by the bill proceeding or not proceeding. Therefore, in certain circumstances, even if it has been found not to comply, the bill may be allowed to proceed.

The Standing Orders Committee also meets to consider the propriety of dispensing with Standing Orders for a bill which promoters wish to present at a time of year other than November (a “late” bill). It also meets if provisions additional to that originally advertised in the public notices should be required (a “petition for additional provision”).

1.4 Petitioning against Bills

Persons or organisations that object to a private bill may petition both Houses against it. Naturally, they may also contact their Member of Parliament, which may result in a blocking motion being tabled at various stages. Petitioning the House may involve employing a professional parliamentary agent; otherwise, the petitioner can act for him or herself or be represented by a friend or colleague. Petitions are accepted during a period of ten days after the first reading of the bill (in the first House there are strict time limits, ending on 30 January in the Commons and 6 February in the Lords). If the petitioning period runs into a recess, it will be extended to the day the House returns after the recess.

⁴ See <http://services.parliament.uk/bills/>

⁵ For the Commons, see <http://www.publications.parliament.uk/pa/cm/cmprivords.htm>; for the Lords, see <http://www.publications.parliament.uk/pa/ld/ldstords/ldprords.htm>.

The petition must be drawn up in accordance with the rules of the House. The House decides who may and who may not appear before a committee on a petition against a private bill. An individual may appear if he or she is “directly and specially” affected by the bill. Representatives of the community, such as a town or parish council, or an amenity society, could petition if the community’s interest was affected.

If the bill’s promoters object on the grounds that a petitioner has no right to be heard, in the Commons a body called the Court of Referees will examine the grounds of each petition (known as the *locus standi*) and decide the case. This is a committee of senior back-benchers, chaired by the Chairman of Ways and Means assisted by Speaker’s Counsel. The Court of Referees’ volume of work was substantially reduced by the passing of the *Transport and Works Act 1992*: its two most recent meetings were in 1995 and 2002. In the Lords, the committee considering the bill itself decides whether petitioners have *locus standi*.

More information about how to petition against a private bill can be found in the [Petitioning Kit](#) on Parliament’s website, see also Appendix B.

2 Private Bill procedure

2.1 Introduction

Erskine May characterises the procedure surrounding Private Bills as follows:

In passing private bills Parliament still exercises its legislative functions, but its proceedings are also of a judicial character. The persons who are applying for powers or benefits appear as petitioners for the bill, while those parties who fear that their interests may be adversely affected by its provisions have the opportunity to oppose it. Many of the formalities of a court of justice are maintained; various conditions are required to be observed and their observance to be strictly proved; and if the parties do not meet such requirements, the bill will not be permitted to make further progress.⁶

There are previous instances of the Speaker refusing to allow a bill to proceed because it did not meet the criteria applied to private legislation.⁷ The Government cannot introduce private legislation: on the rare occasions where Government bills could be described as affecting a particular class or classes of persons, or particular localities, a hybrid bill may be introduced (see the Library Standard Note on *Public Bills*⁸).

The Chairman of Ways and Means (in the Commons) and the Lord Chairman of Committees (in the Lords) decide which bills start in the Commons and which in the Lords, “with a view to general convenience”.⁹ There are many factors which have to be taken into account in making this decision, but in general, substantial local authority legislation and other complex bills are, for logistical reasons, started in the Lords. However, a private bill which appears politically contentious will generally be started in the Commons.

2.2 First and Second Reading

After the compliance of a Bill with the Standing Orders of the two Houses has been proved, it is set down for First Reading in the relevant House. It must be presented by 21st January in the given year. First Reading occurs by means of the bill being deposited in the Private Bill

⁶ Erskine May, 24th edition, p922

⁷ Ibid., p927

⁸ House of Commons Library Standard Note, [House of Commons Background Paper: Public Bills](#), SN/PC/6507

⁹ Erskine May, 24th edition, p946

Office and then being laid on the Table of the House: this is recorded in Votes and Proceedings, but the Bill is not referred to during the sitting of the House.

The agent for the Bill must put it down for Second Reading between four and eight days after First Reading.

Private bills are considered formally (i.e. without debate) immediately after prayers. The Clerk reads out the title of the bill and it begins its passage – unless objected to by a Member.¹⁰ Any member may then table a “blocking motion”, which halts further progress until time is found for a debate during time normally used for Government business. The agents can request such a debate if the Bill is repeatedly held up, and this may last for up to three hours.

2.3 Committee Stage

Once a private bill has its Second Reading, it is committed to one of two types of committee: a Committee on Opposed Bills or a Committee on Unopposed Bills. In this context, “unopposed” means that there were no petitions against the bill or that they have been withdrawn. It does not refer to opposition by Members.

A Member appointed to an opposed private bill committee is obliged to attend, and the House may impose penalties if he or she does not (since March 1991, Members have had to declare they recognise their obligation to attend every meeting). They must not have any local interest in the bill being promoted, and they must sign a declaration to this effect (the bill cannot proceed until they do so). Individual opponents of bills rarely employ counsel, whereas the promoters usually do. Business is conducted in opposed bill committees in the fashion of a civil court, in that responsibility rests on the promoters to establish the case for the private bill. To this end, counsel for the promoters may call witnesses and display exhibits. Petitioners or their representative (Agent or Counsel) may then respond. They may put the case for the bill to be rejected outright, or may ask for it to be amended.

Proceedings of these committees are available on the [Bills before Parliament](#) webpage. The archive of old hearings is kept in the Parliamentary Archives.

These committees can hear evidence only from the promoter and petitioners who have *locus standi*, and they will also hear from government departments if they have expressed views on the bill in a report. They do not have the general power to ‘send for persons and papers’ that is available to select committees. Additionally, the committees must obtain specific dispensation from the House of Commons to ‘adjourn from place to place’ – i.e. to visit and meet outside Westminster.

For both unopposed and opposed bills, the committee sits in a semi-judicial capacity, and opposed bill committees may hear evidence presented by counsel. The function of the committee is to decide whether and in what form the bill should proceed. Committees, whether opposed or unopposed, are assisted by Speaker’s Counsel.

Committee on Opposed Bills

The bill goes to this committee if there are Petitions against it. Committees on opposed bills in the Commons consist of four impartial Members nominated by the Committee of Selection.

¹⁰ See Standing Order 20 (1) and 20 (2). A single Member may shout ‘Object’ at the mention of the Bill, which causes it to be deferred until time can be found for a substantive debate. If there is no objection, the Second Reading will be ‘formal’ i.e. without debate.

If the petitions against the bill are withdrawn, it can be referred back to the Committee of Selection and passed on to the Committee on Unopposed Bills.

Committee on Unopposed Bills

If there are no petitions against a bill, it is referred to an unopposed bill committee consisting of seven members: the Chairman of Ways and Means and his or her two Deputies, and four members from a panel nominated by the Committee of Selection.¹¹ Procedure in the unopposed bill committee is less involved than in an opposed committee and generally brief; the main business is for the promoter to prove the need for the bill and answer questions put to him by the committee. These committees are, however, often able to delve effectively into the technical aspects of the bill. The Speaker's Counsel assists them.

Outcomes of the Committee stage

When this process is complete, the committee discusses the issues raised. There are two possible outcomes of this meeting:

Case Not Proved

If the case has not been proved (i.e., the preamble is said to have been found not proved) this is tantamount to rejection of the whole bill - just as if a public bill were rejected at Second Reading.

Case Proved

If the case has been proved, the committee states that the declared purpose of the bill has been established as proper and desirable. They then go on to consider whether any amendment is necessary; for instance, to protect the rights and interests of petitioners, or to limit the scope of the bill if it appears that the promoters have asked for excessive powers. Some amendments may be proposed by the promoters themselves, often resulting from agreements with petitioners. These are presented to the committee in the form of a "filled-up" bill with the amendments marked in it, and it is usual for the committee to agree to these amendments.

2.4 Consideration and Third Reading

After the committee stage, if the bill has been amended, it is reprinted by the Agents and it is put down for report stage (also known as "consideration"). At consideration, any Member can seek to move amendments. The promoters can also seek amendment at this stage, but they cannot move amendments which would widen the effect of the bill without petitioning again. If the bill is debated at consideration stage, Third Reading usually follows immediately; otherwise it follows a few days later, and the scope for amendment at this stage is restricted to "verbal" amendments, i.e. those affecting the wording and not the substance. If a bill has not been amended in committee it goes straight to Third Reading without a report stage.¹²

2.5 Lords Stages

The bill then goes to the Lords, where it goes through much the same process (including, if necessary, another Opposed Bill Committee). However, the Lords would not restore to the bill a provision deleted by the Commons (or vice versa), in order to save petitioners having to reprove their case. If the Lords amend the bill, as with a public bill, the Commons must consider their amendments.

¹¹ In practice, the Committee is chaired by one of the Deputy Chairmen of Ways and Means.

¹² *Erskine May*, 24th edition, p993

2.6 Suspension and revival

Public bills usually have to complete their stages in both Houses before the end of the session, or they fall and have to start again in the next parliamentary session. With private bills, it is normal for any that have not been completed to be "suspended". Therefore, if the promoters apply, the two Houses may decide to permit the bill to proceed in the next session, even if a general election intervenes. This is known as a Suspension Motion. Only if both Houses agree suspension motions will it be possible to continue with the bill in the next Session. In the new session, the Bill will be taken formally (i.e. without further debate) through all the stages it completed in the old session, and it will then carry on where it left off.

If a private bill has not been suspended, it is possible for the bill to be "revived" (on a revival motion in each House) in the new session to allow it to continue, especially if for some reason there was no time in the old session to consider a suspension motion.

2.7 Royal Assent

Once enacted and printed, Private Acts are published in the [Local and Personal Acts](#) series. Their chapter numbers are printed in Roman numerals (e.g. 1988, cap. xxxvi), and the chapter numbers of personal Acts use numerals but are italicised (e.g. 1987, *cap. 2*).¹³ When assent takes place at the end of a session, personal bills are assented to with the phrase "soit fait comme il est desire" rather than "La Reyne le veult".

3 *Transport and Works Act 1992* and Development Consent Orders under the *Planning Act 2008*

In 1986, following a resurgence in private legislation for large local works projects, a Joint Select Committee on Private Legislation was set up. This committee conducted a complete investigation of all aspects of the system during 1987 and 1988. The House debated the report, which included recommendations for the removal of "works bills" from the scope of private bill procedure. A bill was introduced in Session 1991-92 to give effect to these proposals, which became the [Transport and Works Act 1992](#).

The procedure now means that those wishing to undertake works projects apply to the Secretary of State for an Order under the Act. Deposited plans and an environmental assessment are required, just as for private bills. The application documents are also sent to the House of Commons Library for the information of Members of Parliament. A local inquiry is then held at which objectors may be heard. If the work scheme is approved, it is legislated for by Orders made under the Transport and Works Act: these take the form of local Statutory Instruments. Copies of these are held in the House of Commons Library.

Under section 14(5)(a) of the Act, plans equivalent to deposited plans of private bills must be sent, after the making of an order, to Parliamentary Archives. Non-current application documents will also in due course be transferred to Parliamentary Archives from the Commons Library.

The *Planning Act 2008* introduced Development Consent Orders for nationally significant infrastructure projects. Development Consent Orders contain a portfolio of approvals including planning permission and compulsory purchase orders. The application process is similar to that Transport and Works Act projects.

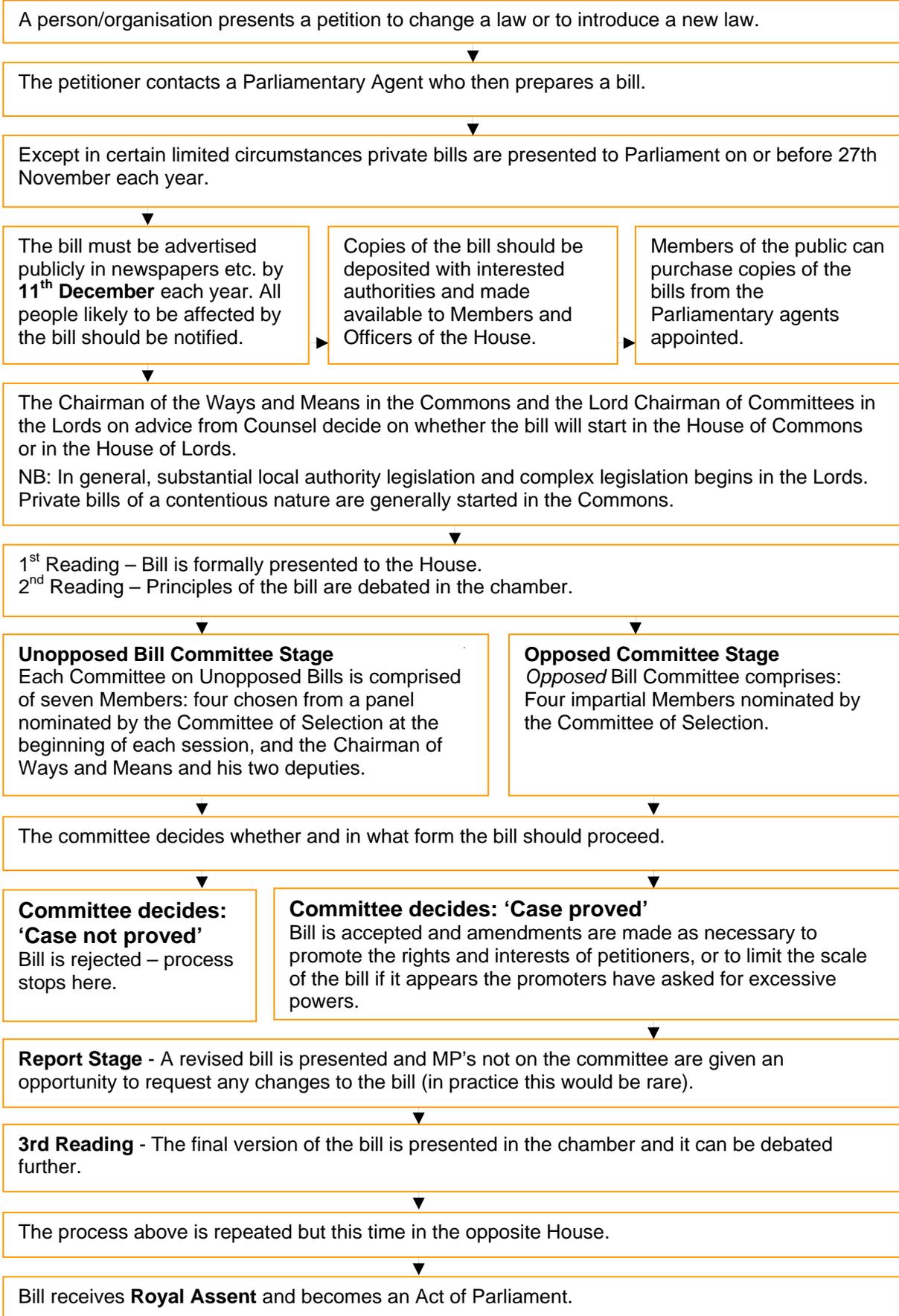
¹³ Personal Acts "relate to the estate, property status or style, or otherwise to the personal affairs of an individual" (see *Erskine May*, 24th edition, p1012). The last personal Act was passed in 1987

It is still possible to introduce such projects by means of a hybrid bill. So, for example, the Channel Tunnel Rail Link was authorised via its own hybrid bill, though the proposal for a station at Stratford, which came later, was dealt with under the Transport and Works Act procedures. The *Crossrail Act 2008* also underwent hybrid bill procedure and a hybrid bill has been introduced to legislate for the construction of the HS2 link from London to the West Midlands.¹⁴

For Scotland, there remains the possibility of promoting Provisional Orders under the *Private Legislation Procedure (Scotland) Act 1936* but these are very rare. Private bills can also be promoted in the Scottish Parliament.

¹⁴ A separate Standard Note describes the hybrid bill procedure: House of Commons Library Standard Note, *Hybrid Bills: House of Commons Background Paper*, SN/PC/6736

Appendix A - Introducing a Private Bill



Appendix B - Petitioning Against a Private Bill

