

DOING "PEPPER v HART" RESEARCH IN LINCOLN'S INN LIBRARY: HOW TO FIND PARLIAMENTARY DEBATES ON STATUTES

Contents: 1. Availability of parliamentary materials; 2. Finding the debates on a section of an Act; 3. Consolidation Acts; 4. The parliamentary stages of a bill: the basic pattern; 5. The parliamentary stages of a bill: complications/exceptions; 6. Other libraries in London holding Commons Standing Committee debates

1. Availability of parliamentary materials

The staff will fetch for you any materials that you need, as none are on open access.

Except for Standing Committee debates, the Library's holdings of all categories of parliamentary materials are virtually complete. The Library holds the Standing Committee debates from 1983/84 to date, and has a small selection of volumes for sessions 1954/55 to 1971/72. Otherwise it is necessary to go elsewhere (none are held by the other Inn libraries). See the back page for their availability in other London libraries.

We generally advise that detailed *Pepper v Hart* research is best done using the hard copy sources. However, *Hansard* is freely available online at www.parliament.uk as follows: Commons 1988/89- ; Lords 1994/95- ; Standing Committees 1997/98- . Before those dates there is also an Historic *Hansard* database back to 1803, but the text is not in the form of the official bound volumes, which should be cited in court. The successive prints of Bills and amendment papers, which are usually also needed, are available online only from 2006/2007.

Note that from session 2006/2007 House of Commons Standing Committees have been renamed 'Public Bill Committees' and are no longer designated by letter. References in this leaflet to Standing Committees should be read accordingly.

2. Finding the debates on a section of an Act

The following applies to finding material on an ordinary Public General Act. For Local and Personal Acts, and for possible parliamentary scrutiny of a Statutory Instrument seek the advice of the staff.

An outline of the parliamentary stages of a bill is given at **4.** and **5.** below.

STEP 1: Are you looking for debates on the right Act?

- (a) Has your section or part of section been inserted by a later Act?
 - if using text as amended, eg *Halsbury's Statutes*, insertions are indicated by lettered section numbers, eg 24A, or words in square brackets
 - look at notes to section to identify the relevant amending Act, then direct your researches there (or in addition to the amended Act)

- (b) Is it a consolidation Act?
 - if in doubt look at its long title
 - if yes, see **3.** below before proceeding

STEP 2: If the Act was passed in sessions 1985/86 to 2009/10, it is helpful to have to hand the entry for the bill in the House of Commons *Sessional Information Digest* (Case 81, behind the enquiry desk). The list of public bills clearly sets out all the stages and dates. You will also usually need to have to hand a copy of the Act as originally passed – *Current Law Statutes* (case 107) or Queen's Printer annual volumes (Desk IV, cases 108-110).

STEP 3 [Optional, but advisable for bills of any complexity]: Ask the staff to get all prints of the bill for both Commons and Lords. Usually there will be two complete prints of the bill in the Commons and three in the Lords.

- (a) Identify the position of the clause in scheme of the bill using the copy of the Act as passed.
- (b) Note whether the clause is present in each print of the bill and is in identical form to the section in the Act, and if not, at what stage it was inserted or reached its final form.
- (c) Note the number of the clause in each print of the bill, and the stage to which it relates.

STEP 4: Find *Hansard* references for each stage

Acts more than two or three years old

Go to the sessional index for *Hansard* for the first House, then for the second House. Sessional indexes are a separate volume in the Commons series but are bound with the last volume of the session (usually November) in the Lords series. Under the title of the bill, all stages are given. Ignore those with an asterisk - these are formal only without debate.

- stage at which clause reached final form likely to be the most useful
- **but** possibility of debate on unsuccessful amendments before or after
- usually no entry for Commons Committee stage, which indicates that it was taken in a Standing Committee, the debates for which are a separate series

Acts in the last two or three years

If sessional index not yet available (or as an alternative from session 2006/07) go to the Bills and legislation section at www.parliament.uk.

Alternatives:

- *Halsbury's Statutes*
 - full details given on Acts passed 1993 onwards
- *Current Law Statutes*
 - *Hansard* references given before the general note, but in the older volumes not which stage each relates to
- Explanatory Notes to the Act (with the Queen's Printer annual volumes)
 - full details usually given since their inception in 1999

Shortcuts:

- Human Rights Act 1998: see Cooper *Legislating for human rights* (Case 56)
- Copyright Acts: see table in Copinger (Textbook Bay), but not necessarily minor mentions
- Asylum and Immigration Act 1996: see Immigration Law Practitioners' Association compilation (ed. Ghose) Desk XIII (with Sessional Information Digest)
- information increasingly provided in textbooks, esp guides to new Acts, eg Blackstone's Guides
- detailed annotations to the particular section in *Current Law Statutes*, especially recent vols. (but full research as above may still be needed)

Typically, you will have found references to eight stages: *Commons*: 2nd Reading (1), Committee (2), Report & 3rd Reading (3); *Lords*: 2nd Reading (4), Committee (5), Report (6), 3rd Reading (7); *Commons*: Lords amendments (8). See **4.** and **5.** below.

STEP 5: Find any debates on your clause at each stage.

Leaf through relevant stage until clause number found, but if order of consideration of clauses not obvious:

Commons Committee stage

- (a) if relevant Standing Committee debates in the form of official bound volumes (cream), clause numbers are indexed under “Clause”; but
- (b) if the volumes bound by the Library (blue) which do not have an index, look at debate at the first sitting for any motions on order of consideration of clauses
 - otherwise, usual order: each clause in the original bill and amendments thereto, new clauses, schedules in original bill and amendments thereto, new schedules
 - clause numbers discussed at that sitting printed on front cover of each sitting of Standing Committee debates
 - new clauses under consideration at Committee stage will have an entirely separate number until agreed and incorporated

Commons Report stage

- look at start of first day's debate
- otherwise, usual order: new clauses, amendments to clauses, new schedules, amendments to schedules

Lords Committee, Report and Third Reading

- look at marshalled lists of amendments with relevant print of bill
 - order of consideration of clauses given on front cover
 - if stage lasts more than one day marshalled list reprinted each day: from this you can tell on which day the clause was considered

STEP 6: Taking copies

If researching a very recent Act so that copies can only be taken from the weekly unrevised parts of *Hansard*, and you go to court at a later date, check whether an official revised bound volume has subsequently been produced. There should not be changes of substance, but editorial corrections are made and the column numbering may change.

3. Consolidation Acts

Consolidation Acts, which are made pursuant to the Consolidation of Enactments (Procedure) Act 1949, re-enact the existing law with corrections and minor improvements only. The substance of a Consolidation Bill therefore does not receive further parliamentary debate, but the consolidation process is scrutinised by the Joint Committee on Consolidation Bills, which takes evidence from the draftsman. Existing words of a previous statute may be re-used, or the drafting may be re-cast. Some Consolidation Acts are the result of recommendations of the Law Commission.

STEP 1: Trace derivation of section in previous Act

- annotations to section or separate table of derivations in *Current Law Statutes* or *Halsbury's Statutes*
- or, table of derivations in index volume of official annual volumes of Public General Acts (provided from 1967)
- a shortcut can be to use old editions of standard textbooks, especially those in the form of annotated Acts, eg *Buckley on the Companies Acts*
- if in none of the above, free text search on *Justis Statutes* using significant keywords from the section that are likely to appear in any previous version (bearing in mind the possibility of adjustments in redrafting and modernisation of terminology)
- last resort: look through all the Acts listed in the schedule of repeals in the consolidating Act until you find the provision

STEP 2: Check that the previous Act from which the section derives is not itself a consolidation Act

- if so, repeat Step 1 until the Act which first enacted the provision is found

STEP 3: Compare the wording of the provision in the original Act and the consolidation Act

- if identical, proceed with your research on the original section as described in **2.** above
- if not identical, and difference of significance for your problem, research the consolidation process:
 - Report and minutes of Joint Committee on Consolidation Bills (in House of Commons papers, ask staff)
 - Any Law Commission report on the bill (which will be referred to in Joint Committee report or *Current Law Statutes* – Law Com reports shelved in case 89 by report number and listed on main Library catalogue)
 - Any debates in *Hansard* on the Consolidation Bill

4. The parliamentary stages of a bill: the basic pattern

The following are the usual stages for a government bill introduced in the House of Commons. A bill introduced in the Lords ("H.L." after its title) goes through the same stages *mutatis mutandis*. The version of the bill being considered at each stage is given below in square brackets.

Commons introduction and first reading

- no debate, purely formal
- bill not yet printed: ordered to be printed
- date for second reading set

Commons second reading

- debate on the principle of the bill
- useful for mischief aimed at and background to bill, eg green/white papers, court decisions etc.
- possible explanation by Minister of major clauses at start of debate in introducing bill and end of debate in winding up (sometimes different Minister)
- no amendments at this stage

[Print of bill: as first printed for the Commons]

Commons committee stage

- detailed clause by clause consideration of bill and amendments
- since 1907 automatically referred to a Standing Committee off the floor of the House (Standing Committee A, B, C etc.) unless otherwise ordered
- usually the most fruitful stage for research
- from 2006/2007 includes written and oral evidence from outside persons and bodies
- debates in Standing Committee since 1919 published as separate series not in *Hansard* (Standing Committee debates 1907-1919 not published at all)
- for availability of Standing Committee debates see 6. below

[Print of bill: as first printed for the Commons]

Commons report stage

- sometimes called consideration stage (esp in older sessional indexes to *Hansard*)
- new amendments, especially government amendments made on undertakings in committee

[Print of bill: as amended in Standing Committee]

Commons third reading

- usually purely formal and taken without a gap immediately after report stage
- no further amendments, other than purely verbal corrections

[Print of bill: as amended in Standing Committee]

Lords introduction and first reading

- as in Commons

Lords second reading

- as in Commons

[Print of bill: as first printed for Lords, i.e. as amended after third reading in Commons]

Lords committee stage

- clause by clause consideration as in Commons
- but usually taken by a "Committee of the Whole House", i.e. on the floor of the house, so debates in main Lords *Hansard*

[Print of bill: as first printed for the Lords]

Lords report stage

- as in Commons

[Print of bill: as amended in Committee]

Lords third reading

- not as in Commons: separated from report stage
- substantive amendments frequently moved, especially on government undertakings at committee and report stages.

[Print of bill: as amended on Report]

Commons consideration of Lords amendments

- bill returns to the Commons: usually the last stage
- brief explanation by Minister in Commons of reasons for Lords amendments
- but Commons can disagree with Lords amendments and can amend them or substitute their own amendments

[Print of bill: whole bill not reprinted, but list of amendments, printed in the Commons series of bills, which refers to bill as first printed for Lords]

Lords consideration of Commons reasons and amendments ('ping pong')

- only if Commons have disagreed with Lords amendments
- possible to have Lords amendments to Commons amendments to Lords amendments, and so on

[Print of bill: whole bill not reprinted, but "Commons Reasons for Disagreeing with Lords Amendments and Commons Amendments to Lords Amendments" printed in the Lords series of bills, which refers to bill as first printed for the Lords]

Royal assent

- recorded in *Hansard* but purely formal

5. The parliamentary stages of a bill: complications/exceptions

The following are some of the complications or exceptions to the basic pattern described above that may be encountered.

Commons introduction and first reading

- private members' bills under the "Ten-Minute Rule"
- short debate on leave to introduce the bill
- bill very rarely proceeds further (but this stage would be needed for an Act so originating)

Commons second reading

- second reading committee off the floor of the House
- uncontroversial bills, esp. Law Commission bills and others started in Lords
- before 1979/80 debates published in main *Hansard*, subsequently with Standing Committee debates

Commons committee stage

- Whole or part of bill in Committee of the Whole House (on the floor of the House)
 - debates in main *Hansard*
 - used for Finance Bills:
 - before 1967/68 the whole bill
 - 1967/68 not used, whole bill in Standing Committee
 - from 1968/69 split: "specialist clauses" in Standing Committee, "general clauses" on floor of House
 - occasionally for other bills, esp. if of major constitutional importance
- Special Standing Committee
 - written and oral evidence taken from outside parties
 - very rare in the past, but attempted revival, eg Immigration and Asylum Bill 1998/99; from 2006/2007 overtaken by new ordinary committee procedure taking outside evidence as a matter of routine
 - evidence included in the Standing Committee debates

- Select Committees on Hybrid Bills
 - public bills of general application, but including provisions affecting private interests as would a private bill (eg Channel Tunnel Bill, Severn Bridge Bill)
 - after Select Committee recommitted to a Standing Committee to proceed as an ordinary public bill
 - proceedings published in House of Commons papers (not in *Hansard* or Standing Committee debates)
- Select Committees on [non-hybrid] Public Bills
 - now very rare, common in 19th century

Recommittal

- occasionally needed (in either House) if substantial new clauses introduced at report stage
- same procedure as at ordinary committee stage, plus further report stage on recommitted clauses

Lords committee stage

- Grand Committee
 - i.e. a Committee of the Whole House off the Floor of the House
 - same as an ordinary Committee of the Whole House except no divisions
 - introduced 1994/95; now used frequently
 - in main Lords *Hansard* but with separate column numbering CWH (from 2002 GC)
- No committee stage
 - Finance Bills (order for committal negatived)
 - no amendments tabled (order for committal discharged)
 - if no committee stage, no report stage
- Joint Committee on Consolidation Bills
 - takes committee stage for both houses
 - see **3.** above
- Select Committee on Hybrid Bills
 - as for Commons
 - proceedings published as House of Lords papers
- Select Committee on [non-Hybrid] Public Bills
 - used very occasionally, especially for controversial private members' bills
 - proceedings published as House of Lords papers
 - if succeeds, it will be recommitted to a Committee of the Whole House
- Public Bill Committee
 - equivalent of a Commons Standing Committee
 - off the floor of the House
 - v. rare (since 1987: Charities Act 1992, Law of Property (Miscellaneous Provisions) Act 1994, Trade Marks Act 1994)
 - debates bound with *Commons* Standing Committee debates
- Special Public Bill Committee
 - oral and written evidence, then clause by clause consideration off the floor of the House
 - only v. rarely used since procedure invented (eg Law Reform (Miscellaneous Provisions) Act 1995)
 - proceedings and debates published as House of Lords papers (not in *Hansard*)

6. Other libraries in London holding Commons Standing Committee debates

For Standing Committee debates before 1983/84 (that are not among the small selection held for 1954/55 to 1971/72), it is necessary to go elsewhere.

Before going to another library, the staff can give you the Standing Committee letter (A,B,C etc) which is how the bound volumes are usually arranged. It is also sometimes helpful to look in advance at the formal *Minutes* of the Standing Committee, which are held here in the House of Commons Papers. These will show what amendments were tabled, so whether you should expect to find some debate.

The staff can also advise on libraries outside London.

LAW SOCIETY LIBRARY, 113 Chancery Lane, WC2 (0870 606 2511)

- Standing Committee debates 1967/68- (but the odd gap)
- By a special agreement with the Inns, barristers may use the library to consult the Standing Committee debates only – *we telephone in advance for you* to arrange this

GUILDHALL LIBRARY, Aldermanbury, EC2 (tel 020 7332 1868)

- Standing Committee debates 1946/47- (Incomplete prior to 1970/71)
- items usually have to be ordered up from a store - waiting time approximately 10-15 minutes
- *public library*

WESTMINSTER REFERENCE LIBRARY, 35 St Martin's Street, WC2 (tel 020 7641 4634)

- Standing Committee debates 1919, 1946/47 - 1958/59 (in store - 2 working days notice required - excluding Saturdays), 1959/60 - March 2006 (short wait)
- *public library*

BRITISH LIBRARY, 96 Euston Road, NW1 (tel: Switchboard 020 7412 7000; Reader Admission Office 7412 7677; Official Publications 7412 7536)

- Standing Committee debates 1919-
- *admission only by Reader's Pass* (non-pass holders contact Reader Admission Office for advice on how to apply for a pass)
- debates on open shelves in Science North 2 Reading Room

UNIVERSITY OF LONDON LIBRARY, Senate House, Malet Street, London WC1 (tel 020 7636 4514 ext 5059)

- Standing Committee debates 1919-
- *charges for admission* to non-members of the University

Please do not hesitate to ask the staff for any assistance