

C HOW, FOR NEARLY 50 YEARS, THE LAW SOCIETY HAS BAMBOOZLED, DUPED AND DECEIVED PARLIAMENT, THE HIGH COURT, COURT OF APPEAL, SUPREME COURT AND THE EUROPEAN COURT OF HUMAN RIGHTS

1 MATERIALS

1) HOW THE LEGISLATIVE PROCESS WORKS

The following extracts from Leaflet L1 Parliamentary Stages of a Government Bill, published by the House of Commons Information Office show the stages of the legislative process.

First Reading

On the day of presentation, a “dummy” copy of the bill is placed on the Table. Once it has been presented, each bill is allocated a bill number, which is printed on the bottom left-hand corner of the front page in square brackets (e.g. [Bill 4]). Each time the bill is re-printed (for example, after the committee stage), it is given a new number.

This First Reading stage also forms the House’s order to print the bill, which is done for the House by the Stationery Office.

Explanatory Notes are also published to accompany the bill, although they may not always be available as soon as the bill itself is published.



Second Reading

When the bill is printed, and only then, it can proceed, after examination for compliance with the House’s rules, to its first substantive stage. This is called Second Reading.



Before Second Reading, Programme Motions may be moved in order to set out a timetable for the conclusion of proceedings on a bill. More details on Programme Motions can be found in the appendices.

The Second Reading is the time at which the House considers the principle of the bill, and debate is often wide-ranging. The debate on Second Reading is printed in *Hansard*, the Official Report of debates.

The Second Reading is the first stage at which a Government bill can be defeated. At Second Reading the Opposition may object to a bill by tabling a "reasoned amendment". This is not an amendment to the bill itself, but is technically an amendment to the question which is before the House at Second Reading: "That the bill be now read a second time", giving the reasons for objecting to the bill. It appears as a Motion on the Order Paper, beginning with the words, "That this House declines to give a Second Reading to the _____ bill because ..."



Committee Stage

After Second Reading, and any Money or Ways and Means Resolutions have been dealt with, the bill moves to its committee stage. This usually takes place in a **Standing Committee** but may be taken in **Committee of the Whole House** or a **Special Standing Committee**.

The committee will examine each clause and Schedule of the Bill, agreeing or disagreeing to a Motion that it "stand part" of the bill (i.e. leaving it in or deleting it). The committee may also consider amendments to the bill. As well as amendments to existing clauses and Schedules, new clause and new Schedules may be added to the bill.



Standing Committee

A Standing Committee generally has about 18 members and its membership reflects the party composition of the House. At least one Minister from the Government Department in charge of the bill will be on the committee, as will a front-bench spokesman from each of the opposition parties represented. A new Standing Committee is appointed for each bill and the membership of each committee is discharged when it has reported its bill to the House. There may be several standing committees appointed at any one time, and they are designated by letters (Standing Committee A, Standing Committee B, and so on).



Special Standing Committees

Very occasionally, a bill may be committed to a Special Standing Committee, which spends a limited time investigating the issues involved before going through the bill in the usual way as a normal Standing Committee.

The *Matrimonial and Family Proceedings Bill* 1983–84 is one example of a bill to which this procedure has been applied. The Modernisation Committee has recommended that more use of these committees should be considered. Most recently, the procedure was used for the *Immigration and Asylum Bill* 1998–99.

Committee Of The Whole House

The whole House may consider certain bills at Committee stage. In general, these are bills of constitutional importance - such as the *House of Lords Bill* 1998/99 - those requiring a very rapid passage, and certain financial measures, including at least part of each year's *Finance Bill*. Debates in Committee of the Whole House are published in *Commons Hansard*.

Bills can sometimes be referred to a Select Committee, in which case evidence may be taken and a report made.



Report Stage

The next stage is known as the Report stage. At this stage, the House may make further amendments to the bill but does not consider those clauses and Schedules to which no amendments have been tabled.

The Report stage provides an opportunity for Members who were not on the Standing Committee to move amendments to the bill. The delay between Committee and Report allows time for the Government to give further thought to some of the points raised during the committee stage. They may, for example, choose to bring forward their own amendments in lieu of amendments which were rejected or withdrawn in the Committee.

The House may reverse or amend changes made by the Standing Committee. If a bill has been dealt with by a Committee of the whole House, and has not been amended, it progresses straight to Third Reading without a Report Stage.



Third Reading

The final Commons stage of the bill is the Third Reading, usually taken directly after the conclusion of Report. This enables the House to take an overview of the bill, as amended in Committee or on Report. No amendments may be made at this stage. Debates on Third Reading are usually very short.



Lords Stages and Amendments

Once it has passed its Third Reading in the Commons, the bill is sent to the Lords – usually on the next sitting day. The legislative process in the House of Lords is broadly similar to that in the House of Commons. Important differences are:

- (a) after Second Reading, bills are usually committed to a Committee of the whole House.
- (b) there is no guillotine and debate on amendments is unrestricted.
- (c) amendments can be made at Third Reading as well as at Committee and Consideration stage.

The Lords and Commons must finally agree a text of each bill. If the Lords have not amended a Commons bill they inform the Commons of the fact.

If the Lords amend a Commons bill, their amendments are printed and considered by the Commons. Here, the Commons can do three things – firstly, they may agree to the Lords amendments, secondly, they may agree to them with amendments, or, thirdly, they may disagree to them.

If the Commons agree to the Lords amendments, but with amendments of their own, they ask the Lords to agree to those amendments. If they disagree to the Lords amendments, they send a Message giving the reasons for their disagreement and the Lords consider the matter further.



Royal Assent

When a text has been agreed between the Houses, the bill is submitted for the Royal Assent.

The Crown...

2) CONSOLIDATION ACTS

238. Consolidation Acts.

A consolidation Act¹ is a form of principal Act² which presents the whole body of the statute law on a subject in complete form, repealing the former Acts³. When drafting a consolidation Act the practice is not to change the existing wording, except so far as may be required for purposes of verbal 'carpentry', and not to incorporate court rulings: this is known as 'straight' consolidation, the product being a form of declaratory enactment⁴. The difference between a consolidation Act and a codifying Act is that the latter, unlike the former, incorporates common law rules not previously codified⁵. It can be determined from the long title whether or not an Act is a consolidation Act⁶.

A Bill solely effecting consolidation, that is consisting of 'straight' consolidation, is virtually immune from amendment during its passage through Parliament⁷. Since 1949 this privilege has extended to Bills which seek to consolidate the law with corrections and minor improvements⁸ and since 1967 a similar privilege has attached to Bills to consolidate enactments with amendments to give effect to recommendations made by the Law Commission⁹. If the existing law is found to require more amendment than is possible in pursuance of Law Commission recommendations, a possible procedure is for an amending Act to be passed, followed immediately by a consolidation Act¹⁰, but Acts to consolidate the law with amendments are occasionally found¹¹.

734. Construction of consolidation Acts.

Initially a consolidation Act¹ is to be construed in the same way as any other Act. If, however, a real doubt as to its meaning arises² the following rules apply:

- (1) unless the contrary intention appears, an Act stated in its long title³ to be a consolidation Act is presumed not to be intended to change the law, and so its words must be construed exactly as if they remained in the earlier Act⁴;
- (2) the above presumption means that in case of real doubt the earlier law may be considered⁵, even if the words are not identical⁶;
- (3) in so far as the Act constitutes consolidation with amendments, its words are to be construed as if they were contained in an ordinary amending Act⁷; and
- (4) if there is inconsistency in the sections of a consolidation Act it may be necessary to look at the respective dates of their first enactment to explain the inconsistency⁸.

The rules applicable to the construction of consolidation Acts apply not only in the case of 'pure' consolidation exercises, but also, at least to some extent, to re-enactments with modifications; it may, however, be difficult for the courts in such a case to determine just how far the new Act was intended to continue the law of the old and how far it intended to innovate⁹.

Halsbury's Laws of England/Statutes and Legislative Process (Volume 96 (2018))/2. Acts of the United Kingdom Parliament/(1) Nature and Classification of Acts/(iii) Law Reform Acts/238. Consolidation Acts.

Consolidation Bills bring together a number of existing Acts of Parliament on the same subject into one Act without changing the law in any way. They are used as a way of tidying-up areas of statute law that have become fragmented over time. For this reason Consolidation Bills are normally passed by Parliament with little or no debate.