# MODERN ROYAL ASSENT PROCEDURE AT WESTMINSTER

An Act of Parliament is not just a text. It contains components of different kinds, the nature of which is not always grasped. Yet to construe any document correctly we need to understand the basis on which it was created. The nature of an Act is complex, for an Act is the product of an elaborate process. This leaves its mark on structure and layout, and influences the meaning and effect of each component. The legal effect of certain components is furthermore affected by specific enactments.

As an illustration of the need for the interpreter to be aware of the nature of the various components, we may take the four that precede an Act's operative provisions.{The term "operative provision" is preferred to "enacting words", a description which is often used by judges and commentators but has in fact been obsolete since 1850, when Lord Brougham's Act abolished the need for a separate enacting formula at the beginning of each section.} These components are the chapter number, the long title, the date of assent and the enacting formula.{Rarely nowadays, a public Bill may also contain a preamble. When present, this is placed immediately before the enacting formula and requires a slight change in the wording of that formula.}

The significance of the chapter number, though not obvious, can be inferred.{It is explained *post*, p.000.} The function of the long title is more complex, and its nature is often misunderstood. This even applies to learned judges, who have been known to confuse the long title with a preamble{As in *Ward* v *Holman* [1964] 2 Q.B.585,586-7 and *Re Coventry decd.* [1979] 3 All E.R. 815, 821.}or a heading.{As in *Re Diplock's Estate* [1948] Ch.465 and *Hodgson* v *Marks* [1970] 3 All E.R. 513.} Academic commentators also sometimes err.{As in *Statutory Interpretation*, p.158, where the late Sir Rupert Cross says "it is by no means uncommon for the enacting words to go beyond the matters mentioned in the long title." In fact Parliamentary standing orders require the long title to cover everything in a Bill, and to be amended if amendments to the operative provisions render this necessary. The rule is strictly enforced by Parliamentary officials.} The long title is not, as might appear to the uninstructed reader, a summary of the Act's contents inserted for his convenience. It owes its presence to the procedural rules governing Parliamentary Bills. Once the Bill has received Royal Assent, the long title is vestigial.

The date of Assent (not described as such) is entered in pursuance of a statutory duty.{See p.000, *post*.} Unless otherwise provided in the Act, it is made by statute the commencement date.{Interpretation Act 1978, s.4.}

The enacting formula varies with different types of Act, but always conveys the information that enactment is "by the Queen's most Excellent Majesty". It adds that this is accomplished with the advice and consent, and by the authority of, "the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled". These words abbreviate an elaborate procedure which has had a lengthy historical development. They indicate that the Bill for the Act has been passed by both Houses and has then received Royal Assent.

Similar technicalities apply to the other components of an Act. None are to be taken at face value, without consideration of how they came to be there. What Parliament does is put out a text in a certain form, leaving the user to understand the significance of its various elements as best he may.

In aid of such understanding, this article seeks to describe the current Royal Assent procedure in the Westminster Parliament. It does not examine the procedural rules that dictate the form of a a Bill. They are exhaustively described in *Erskine May*.{Sir T. Erskine May *The Law, Privileges, Proceedings and Usage of Parliament* (19th ed. 1976).} What that work does not cover so fully is the way the text produced in

accordance with those rules is finally validated. The details of this process, to which the name Royal Assent is given, are nevertheless important in assisting the interpreter to judge the legal nature and significance of the various components of the Act. Our initial discussion is in terms of public Bills, namely those presented in either House by or on the motion of a Member. Modifications in the case of private Bills are described later.{*Post,* p.000.}

*The text to which Assent is given*

First we need to consider exactly what text it is to which the validating process is applied. The starting point is the handing in of the text of the Bill to the Public Bill Office of the House in which it is introduced. This is done by or on behalf of the Member presenting the Bill. In the case of Government Bills it is done by the draftsman. Rules of procedure of each House require that after being given a formal first reading by that House the Bill is to be printed. It may be reprinted at later stages to reproduce the effect of amendments made.{The term "amendment" is reserved for amendments in the strict sense, namely those alterations to the wording of the Bill made by order of either House. As to the making of printing alterations informally by clerks in the Public Bill Office, see *post,* p.000.}

We now describe the procedure on the supposition that the first House is the Lords. Most Lords' Bills which attain the statute book are introduced by a peer who acts on behalf of the Government. Nevertheless the Lords procedure is the same whatever the provenance of the Bill.

After the third reading has been agreed to, the motion is put "that the Bill do now pass". Having been passed, the Bill is taken to the Commons. The procedure for this is as follows.

First, a document known as the House Bill is prepared in the Public Bill Office of the House of Lords. This is a print of the Bill (as finally agreed to by the Lords) interleaved with blank pages and bound in red tape. A manuscript endorsement in Norman French is made on the top of the front page and signed by the Clerk of the Parliaments . It reads "Soit baille aux Communes" (let it be sent to the Commons). The House Bill is then tied with red tape to a Message informing the Commons that "the Lords have passed the [short title] Bill to which they desire the agreement of the Commons".A Lords clerk wearing wig and gown then carries the House Bill and Message to the bar of the House of Commons, bows to the Speaker, hands the Bill and Message to the Serjeant- at-Arms, bows again and retires.{Standing orders permit House Bills to be transmitted between the Houses informally if occasion requires. The effect is the same. Whether it is transmitted formally or informally, receipt of the Bill is entered in the minutes of the receiving House. If by mistake a Bill is handed over without the required endorsement it must be returned to the original House since the receiving House has then no authority to proceed. The Bill is returned informally unless the receiving House has entered upon consideration of it, when a motion by that House is required.}

The Bill is now in the possession of the Commons. If a member of that House informs the clerks at the table that he intends to take charge of the Bill it is thereupon deemed to be given a first reading. Otherwise it lapses.

If, having been given a first reading, the Bill is passed by the Commons with one or more amendments, the amendments are entered accordingly in the House Bill that was brought from the Lords. On the passing of the Bill by the Commons (with or without amendment) the Clerk of the House of Commons or, in his absence, the Clerk Assistant endorses at the top of the first page of the House Bill brought from the Lords the appropriate formula. This is written immediately underneath the endorsement previously made by the Clerk of the Parliaments. If the Bill is unamended the formula is *A ceste Bille les Communes sont assentus* (To this Bill the Commons have assented). If a single amendment has been made the words *avecque une amendment* are inserted after *Bille.* In the case of two or more amendments the insertion is *avecque des amendmens.*

The House Bill is now tied with green tape to a Message informing the Lords that "the Commons agree to

the [short title] Bill without amendment" [or, as appropriate, "with an amendment to which they desire the agreement of the Lords" or "with amendments to which they desire the agreement of the Lords"]. The Message and Bill are then carried to the Lords by a Commons clerk in wig and gown. He is received by a Lords clerk at the wicket gate of the Bar. The clerks exchange bows and the Message and Bill are handed over.{But see note 12, *ante*.} The Bill is now once more in the possession of the Lords. If it was not amended by the Commons, it awaits Royal Assent. If however it was amended, at least one further stage is necessary.

There are three possible cases: (1) all the amendments made by the Commons are agreed to by the Lords; (2) they are all agreed to subject to one or more further amendments; (3) one or more of them is disagreed to. The House Bill is endorsed accordingly by the Clerk of the Parliaments. It is returned to the Commons (with any amendments entered) by the same procedure.

In the first of the three cases mentioned above, the endorsement on the House Bill is *A ces amendemens* (or *A cette amendement* if there is only one) *les Seigneurs sont assentus.* In the second case the words *avecque une amendement* or *avecque des amendemens* are inserted before *les Seigneurs.* In the third case the House Bill is returned accompanied by reasons for the disagreement. The formula is then *Ceste Bille est remise aux Communes avecque des Raisons* (or *une Raison*, where appropriate).{Amendments disagreed to are underlined. If disagreements are persisted in, and the Bill continues its journeys between the Houses, different coloured ink is used for the successive endorsements.}

In the first case, the Bill is then ready for Royal Assent. In the second and third cases, exchanges between the Houses continue for as long as may be necessary to secure agreement or, failing this, until it is clear that the Bill is lost for the session. The exchanges are conducted by means of messages, and further endorsements as appropriate are made on the front of the House Bill. Where the exchanges end in agreement, it is the duty of the Clerk of the Parliaments to ensure that the final text of the House Bill corresponds exactly to what has been agreed by both Houses.

The above account describes the procedure applicable to a Bill that originates in the Lords. Where the Commons is the first House, the same procedure is followed with obvious adaptations. Such differences as do exist are insignificant.{One difference is that with a Commons Bill the House Bill is bound by the first House in green tape rather than red. These two colours have been used for many years to characterise each House respectively, for example in relation to the benches and decorative scheme of the debating chambers and the printing of insignia on Parliamentary papers.}

*Informal alterations to Bills*

In whichever House the Bill originates, the same strict rules apply to the making of alterations in the House Bill so as to bring its text into the condition necessary for Royal Assent. Here, as already indicated, we need to distinguish between amendments properly so called and other changes. Amendments are made by order of either House in the course of proceedings on the Bill.{Most amendments are made in Committee or on Report.} Other changes, known as printing corrections, are made informally by or under the direction of the Clerk of Public Bills of either House.

The rules governing the making of printing corrections may be expressed as follows.

1. Except as mentioned in rules 2 to 7, no alterations may be made in the House Bill except such as are required to give effect to amendments.

2. A clerk in the Public Bill Office, on the advice of the draftsman, decides on the place in the Bill at which each new clause or Schedule added by amendment is to be inserted.{This applies only to amendments made in the Commons. In the Lords, amendments to add new clauses or Schedules indicate the position they are to take in the Bill. As to the role of the draftsman, see Bennion *Statute Law* chap.2.}

3. Changes are made by a clerk in the Public Office in the *numbers* of sections and other provisions, and

in cross-references to these numbers, where the changes are made necessary by amendments adding or deleting material.

4. Where the material in the House Bill contains a misprint or other textual error , and it is clear what the correct version should be, it is for the Public Bill Office to correct the error. If it is not clear what the correction should be the error must be allowed to remain (unless it can be put right by an amendment).

5. A clerk in the Public Bill Office, on the advice of the draftsman, may alter marginal notes or punctuation where this is made necessary or desirable by reason of amendments made to the Bill, or where it otherwise makes clearer the intended meaning. 6. Rule 5 applies also to any cross-heading within the body of the Act or a Schedule.

7. A clerk in the Public Bill Office changes references to the year in cases where the Bill concludes its passage in the year subsequent to that in which it was introduced.{As to further changes made following the signifying of Royal Assent, see p.000,*post.* As to changes in the enacting formula where the Bill is passed under the Parliament Acts 1911 and 1949, see p.000,*post.*}

When a Bill has been agreed to by both Houses, the House Bill relating to it is kept until Royal Assent in the Office of the Clerk of the Parliaments. {In the case of a Bill for granting aids and supplies to the Crown (e.g. a Consolidated Fund Bill) the House Bill would be returned to the custody of the Clerk of the House of Commons if Royal Assent to the Bill were going to be signified by Commission. In practice this does not happen under modern conditions (see p.000,*post*).}

It will be seen from the foregoing account that the text to which Royal Assent is given is that of the House Bill prepared by the first House as subsequently altered (1) to reproduce the effect of subsequent amendments agreed to by both Houses and (2) to incorporate printing corrections.{As shown in the description given below of the Assent procedure, the Queen does not in practice see the corrected House Bill. All that is put before her at the time of Assent is the short title of the Bill.}

*The signifying of Assent*

The concept of Royal Assent to a Parliamentary Bill involves a double process, namely signification of assent by the sign manual and communication of the fact of assent to both Houses of Parliament. Without the second stage Royal Assent is not complete and the Bill does not become an Act.{This fact, further explained below, is not always appreciated - even by draftsmen of Acts. The Parliament Act 1911 in two places speaks of a Bill becoming an Act of Parliament "on the Royal Assent being signified" (ss. 1(1) and 2(1)).}

The procedure is now governed by the Royal Assent Act 1967. This repealed the Royal Assent by Commission Act 1541 (which had hitherto governed the matter), but by including a reference to 'the form and manner customary before the passing of this Act' prevented the former practice from becoming obsolete. Until the passing of the Act of 1541 it had been necessary for the monarch to communicate his assent to Parliament in person.

Letters patent or letters overt (***literae patentes***), by which Assent is signified, are formal communications by the Sovereign with the Great Seal affixed. They are so called because they are ***open*** not secret, being at all times available for inspection to confirm the authority they bestow. In the case of Royal Assent the letters patent are signed with Her Majesty's own hand (the sign manual) and sealed on behalf of the Lord Chancellor by the Clerk of the Crown in Chancery.{This office, held by the Permanent Secretary to the Lord Chancellor, places its holder in charge of the Crown Office. The Clerk of the Crown (as he is commonly known) succeeded to the functions in relation to letters patent of the Clerk of the Petty Bag on the abolition of the latter office by the Great Seal (Offices) Act 1874 (see s.5 of that Act). He is appointed by Her Majesty by warrant under the sign manual (Great Seal (Offices) Act 1874, s.8).} The seal used is the Wafer Great Seal. { A wafer impressed with the same device as the Great Seal of the United Kingdom. Its use in place of the Great Seal is authorized by s.4 of the Crown Office Act 1877.} It is the duty of the Clerk of the Crown, in consultation with the Government, to procure the signifying of the Royal Assent at

the earliest opportunity after a Bill becomes ready for assent (that is when both Houses have passed the Bill, and have agreed together on all amendments made to it). When a date has been fixed for Royal Assent all Bills which have been agreed to by both Houses must be presented for Assent by the Clerk of the Crown. There is no power to withhold a Bill from Assent, whether on the instructions of the Government or anyone else.{See Erskine May *Parliamentary Practice* (19th edn.) p. 562: "from that sanction they cannot be legally withheld".} Nor, under the modern constitutional convention, may the Queen refuse Assent.{The last time Assent was refused was by Queen Anne in 1707, in relation to a Scottish militia Bill (*Lords' Journals* (1705-1709) p.506).} These facts are to some extent misleading. One of the strengths of Britain's unwritten constitution is the reserve power it contains. In a near-revolutionary situation the occasion might still arise for the withholding of Royal Assent, if only by way of delaying tactics.

*Wording of letters patent*

The precise wording of the letters patent is important for the light it throws on the true nature of the Assent process. It is currently laid down by the Crown Office Rules Order 1967.{S.I.1967 No.802, made under s.3(1) of the Crown Office Act 1877.} The wording varies slightly according to the method by which the assent is to be communicted to Parliament. The method most commonly used since the passing of the Royal Assent Act 1967 is *notification*. For Royal Assent by notification (in the usual case where two or more Bills are included) the wording of the letters patent is as follows:-

"ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen Head of the Commonwealth Defender of the Faith To Our right trusty and right well beloved the Lords Spiritual and Temporal and to Our trusty and well beloved the Knights Citizens and Burgesses of the House of Commons in this present Parliament assembled GREETING:
FORASMUCH as in Our said Parliament divers Acts have been agreed upon by you Our loving subjects the Lords Spiritual and Temporal and the Commons the short Titles of which are set forth in the Schedule hereto but the said Acts are not of force and effect in the Law without Our Royal Assent AND forasmuch as We cannot at this time be present in the Higher House of Our said Parliament being the accustomed place for giving Our Royal Assent to such Acts as have been agreed upon by you Our said subjects the Lords and Commons We have therefore caused these Our Letters Patent to be made and have signed them and by them do give Our Royal Assent to the said Acts WILLING that the said Acts shall be of the same strength force and effect as if We had been personally present in the said Higher House and had publicly and in the presence of you all assented to the same COMMANDING ALSO [name of Lord Chancellor] Chancellor of Great Britain to seal these Our Letters with the Great Seal of Our Realm AND ALSO COMMANDING that this Our Royal Assent be notified to each House of Parliament separately pursuant to the Royal Assent Act 1967 AND after this Our Royal Assent shall have been notified to both Houses of Parliament the Clerk of Our Parliaments to endorse the said Acts in Our name as is requisite and to record these Our Letters Patent and the said Acts in manner accustomed AND FINALLY We do declare that after this Our Royal Assent given and notified as aforesaid then and immediately the said Acts shall be taken and accepted as good and perfect Acts of Parliament and be put in due execution accordingly IN WITNESS whereof We have caused these Our Letters to be made Patent WITNESS Ourself at Westminster the
day of in the year of Our Reign.
By The Queen Herself - signed with Her Own Hand."

The only other assent procedure now in use is Assent by Commission at the time of prorogation of Parliament.{See p.000,*post.* } For this the wording of the letters patent substantially differs from that given above only in the words following AND ALSO COMMANDING. Instead of 'that this Our Royal Assent be notified to each House of Parliament separately pursuant to the Royal Assent Act 1967' the wording directs the names of persons to be inserted as Commissioners, giving as examples the Duke of Gloucester and the Archbishop of Canterbury. The names so inserted are to be followed by the names (as Commissioners) of the Lord Chancellor and at least two other Lords of the Privy Council. The

Commissioners, or any three or more of them, are commmanded "to declare this Our Royal Assent in the said Higher House in the presence of you the said Lords and Commons".

Whether Assent is to be by notification or Commission, the Crown Office has the function of drawing up the letters patent for presentation to Her Majesty for signature. The Acts are listed in the schedule to the letters patent by their short titles.{This is authorized by s.3 of the Crown Office Act 1877. The short title used is that conferred by the Act, and not that by which the Bill was referred to in Parliament if different. An example of such a difference is the annual Appropriation Act, referred to during its passage through Parliament as the Consolidated Fund (Appropriation) Bill.} On the day fixed for signing of the letters patent the list of Bills ready for assent is sent to the Clerk of the Crown over the signature of the Clerk of the Parliaments, and is the authority for the issue of the letters patent.

The short titles are listed in the order in which the Bills become ready, or are expected to become ready, for assent. It is a striking illustration of the extent to which Royal Assent has become a mere formality that Her Majesty does not have before her the texts, or even the long titles, of the Bills to which she signifies assent. Indeed these are not even communicated to officials of the Queen's Household (colloquially known as the Palace).

Another striking fact is that it is the practice, after the Queen has signed the letters patent, for the Clerk of the Crown to alter the schedule in manuscript when occasion demands. A listed Bill may be struck out if, having been inserted in anticipation of the Bill being passed by the second House in time, it proves not to be ready for Assent on the date fixed for notification or prorogation. Similarly, though more rarely, a Bill which becomes ready unexpectedly may be inserted in the schedule after the Queen has signed the letters patent. Such alterations are made only with the approval of the Palace. The practice accords with the duty of the Clerk of the Crown to present for Royal Assent all Bills which are ready at the time it is given.

*Assent in person*

Before the passing of the Royal Assent by Commission Act 1541 assent was required to be communicated to Parliament by the sovereign in person. Evidence of the practice before the reign of Henry VIII is scanty, but we know that from his accession in 1509 until Commissions were authorized by the Act of 1541 Assent was pronounced only at the close of each session. In the following two reigns (of Edward VI and Mary) Commissions were not used, and it was not until the reign of George III that Commisssions outnumbered attendances by the sovereign in person.{Sainty 'Parliamentary Functions of the Sovereign since 1509' (House of Lords Record Office Memorandum No.64).} The last time Royal Assent was pronounced by the sovereign in person was by Queen Victoria at a prorogation on 12th August 1854.{Erskine May ***Parliamentary Practice*** (19th edn.) p.564. This was also the last occasion on which Parliament was prorogued by the monarch in person (ibid., p.261).}

Section 1(2) of the Royal Assent Act 1967 states that nothing in the provisions introducing the new notification procedure affects the power of Her Majesty to declare her assent in person in Parliament. Since however it seems unlikely that this ceremony will be revived details of it are not given here.

*Assent by Commission*

Section 1(1)(a) of the Royal Assent Act 1967 states that an Act of Parliament is duly enacted if Assent, being ***signified*** by letters patent as explained above, "is ***pronounced*** in the presence of both Houses in the House of Lords in the form and manner customary before the passing of this Act" (emphasis added). This is a reference to Assent by Commission under the Royal Assent by Commission Act 1541 (repealed by the 1967 Act). Since it required the Commons to be summoned to attend in the House of Lords, the ceremony constituted a pointless and unwelcome interference with Commons business which MPs were inclined to resent. Although kept alive by the 1967 Act, the ceremony is now used only once a session at the time of prorogation. Since the Commons have then finished their business, and are in any case required to attend in the Lords for the prorogation ceremony, the former objection no longer applies.

Three or more of the Commissioners named in the letters patent sit on a form placed between the throne and the woolsack. They commmand the Usher of the Black Rod to go to the Commons chamber and tell the members of that House that their attendance is desired. Mr Speaker, accompanied by some MPs, walks to the Bar of the Lords. The letters patent are read out by the Reading Clerk. Then the short title of the first Bill is read out by the Clerk of the Crown. It is followed by the Assent formula in Norman French recited by the Clerk of the Parliaments. The wording is *La Reyne le Veult* (the Queen wills it). A different formula is used for a Bill granting aids or supplies to the Crown. Here the wording is *La Reyne remercie ses bons sujets, accepte leur benevolence et ainsi le veult* (the Queen thanks her loyal subjects, accepts their bounty and wills it so).{If assent were ever refused, the formula would be *La Reyne s'avisera* (the Queen will consider). As to the formula for private Bills see p.000,*post.*}

The House Bill is not formally produced at the Assent ceremony, but lies on the Table. An exception would arise in the case of a Bill for granting aids and supplies to the Crown. Here, as explained above,the House Bill is returned to the custody of the Clerk of the House of Commons after the Bill has been passed by the Lords (which in this case is always the second House). When under the former practice Assent to such Bills was given by Commission the House Bill was brought up by the Speaker of the House of Commons. The Bill received Assent before all other Bills. The House Bill was handed by Mr Speaker to the Clerk of the Parliaments for him to pronounce the Assent formula.{This procedure would still be followed if such a Bill received Assent at the time of prorogation. This would be unusual however. The normal time for prorogation nowadays is October or November, when financial Bills for the session will have been safely passed some months previously.}

Following the Assent ceremony, Parliament is prorogued. The Lord Chancellor reads out the Royal Speech, and the commission for prorogation is then read out by the Reading Clerk. Finally, the Lord Chancellor announces prorogation. The Commissioners leave the Chamber and both Houses disperse.

*Assent by notification*

Section 1(1)(b) of the Royal Assent Act 1967 provides that the fact that Her Majesty has signified Assent may be "notified to each House of Parliament, sitting separately, by the Speaker of that House or in the case of his absence by the person acting as such Speaker". Such notification completes the Assent process, and section 1(1) provides that thereupon the Act "is duly enacted". The notification is accomplished by reading out a suitable formula, followed by the short titles of the Acts in question. The formula differs in the two Housses, being simpler in the Lords. Before the notification is read out in the Lords the letters patent, bearing the Royal sign manual and with the Wafer Great Seal affixed, are taken to the table of the House of Lords as evidence that it is proper for the Lord Chancellor (as Speaker of that House) or his deputy to read out the notification. In the Commons a list of the short titles of the Acts signed by the Clerk of the Crown provides similar authority for Mr Speaker.

*Assent under the Parliament Acts 1911 and 1949*

The Parliament Act 1911 (as amended by the Parliament Act 1949) lays down two exceptions to the rule that an Act requires the agreement of both Houses of Parliament. Under the Act, a Bill falling within either of the following paragraphs becomes law notwithstanding that it lacks the approval of the House of Lords.

(1) A certified Money Bill which-
(a) is passed by the House of Commons, and
(b) is sent up to the House of Lords at least one month before the end of the session, and
(c) is not passed by the House of Lords without any amendment within one month after being sent up to them.{Parliament Act 1911, s.1(1). Section 1(2) defines "Money Bill" as a public Bill which in the opinion of Mr Speaker contains *only* provisions dealing with specified financial matters. These include taxation, the expenditure of public funds, and the national debt. Local government finance is excluded. Section 1(3) lays down the procedure for the certifying by Mr Speaker of Money Bills.}

(2) A public Bill (other than a Money Bill or a Bill to prolong the life of Parliament beyond five years) which-
(a) is passed by the House of Commons in two successive sessions, and
(b) was passed by the Commons the second time not less than one year after they gave it a second reading in the first session, and
(c) was sent up to the House of Lords at least one month before the end of each of the two sessions, and
(d) is not passed by the House of Lords in the second session without any amendment (or without amendments to which the Commons disagree).
Whenever a Money Bill is sent up to the Lords, the House Bill must bear Mr Speaker's certificate that it is a Money Bill.{Parliament Act 1911, s.1(3). This provision adds that the certificate must also appear on the Bill "when it is presented to [Her] Majesty for assent". This applies even though the Lords have *passed* the Money Bill (which in practice they invariably do). Since, as explained above, no physical Bill is actually presented to Her Majesty this requirement is not in practice complied with. The same applies to the corresponding requirement of s.1(3) in the case of Bills in the second category mentioned above.}

Only three Acts have so far been passed under the provisions of the Parliament Act 1911. These are the Welsh Church Act 1914, the Government of Ireland Act 1914 and the Parliament Act 1949. In all cases the Bills were within the second category mentioned above. Separate Commissions were issued for Royal Assent.{That is the Commissions were separate from those isssued for Bills passed by both Houses in the normal way, though a single Commission was issued covering the two Bills enacted under the Parliament Act 1911 in the year 1914.} No doubt a similar course would be followed in relation to notification under the Royal Assent Act 1967.{That is separate letters patent would be signed and sealed to cover one or more Acts enacted in accordance with the Parliament Acts 1911 and 1949.}

Section 4(1) of the Parliament Act 1911 provides a special enacting formula for Bills receiving Assent under the Act. Section 4(2) gives authority to alter the Bill by a printing correction so that this formula can be substituted without the need for an amendment.

*Printing of Acts*

As soon as Royal Assent to an Act has been notified or pronounced, a copy of the Act is prepared for the printer. This is done in the Public Bill Office of the House of Lords, using the following method. A copy of the latest print of the Bill is obtained. When necessary, this is altered in manuscript and by the insertion of printed amendments so that it exactly corresponds to the final version of the House Bill. At this stage, further alterations of the kind authorised by rules 2 to 7 on page 000 above may be made. In addition, the alterations needed to turn the form of a Bill into that of an Act are made. Apart from obvious adaptations, these include insertion of the chapter number and the date of assent.

The chapter number is written in large arabic characters. Acts are numbered serially, beginning with 1 at the start of a calender year.{Acts of Parliament Numbering and Citation Act 1962, s.1, applying to Acts passed in or after 1963. With Acts passed before 1963, chapter numbering began and ended with the session.} The numerical order follows the order of receiving Royal Assent. Where two or more Acts receive Assent by the same letters patent, chapter numbers are allocated according to the order in which the short titles are set out in the schedule. The date of assent is inserted in accordance with a duty imposed by the Acts of Parliament (Commencement) Act 1793.{33 Geo. 3 c. 13. This short title was conferrred on the Act by the Short Titles Act 1896.} This requires the Clerk of the Parliaments, in the case of every Act, to "endorse (in English) ... immediately after the title{i.e. the long title. Acts did not possess short titles (except where popularly and informally bestowed) before the nineteenth century.} of such Act, the day, month and year when the same shall have passed and shall have received the Royal Assent; and such endorsement shall be taken to be a part of such Act". The wording of this calls for comment. It suggests that the passing of the Act and the receiving of Royal Assent are two different things, but in fact they are the same thing.{*R.v Smith* [1910] 1 K.B. 17.} It speaks of "receiving" Royal Assent. Does this mean, where the dates are different, the execution of the letters patent or the notification (or in the case of a Commisssion, the pronouncement)? It seems clear that it means the latter. The Royal Assent Act 1967

states that an Act is "duly enacted" if Assent is both signified and notified (or pronounced). The prescribed form for the letters patent says that Assent is given "by them", which suggests that the signing and sealing of the letters patent is sufficient in itself. The form ends however with the declaration that "after this Our Royal Assent given *and notified* [or, in the case of a Commission, *declared*] ... the said Acts shall be taken and accepted as good and perfect Acts of Parliament." The point could only become important if, perhaps in conditions of emergency, one or both Houses did not sit for a period following the execution of the letters patent.{It is of interest to note that ss 1(1) and 2(1) of the Parliament Act 1911 state that a Bill enacted under that Act shall become an Act of Parliament "on the Royal Assent being *signified*" (emphasis added).}

After examination in the Public Bill Office of the House of Lords to verify its accuracy, a proof of the printed Act is certified as correct by the Clerk of Public Bills and returned to the Queen's Printer of Acts of Parliament{An office held under modern practice by the official who is Controller of Her Majesty's Stationery Office} with a request for its immediate publication. Two prints of the Act are then prepared on vellum. After a further examination in the Public Bill Office to ensure their correctness, these are endorsed with the appropriate Royal Assent formula and signed by the Clerk of the Parliaments. They then become the official copies of the Act. One is sent for custody to the Public Record Office in Chancery Lane, London.{Thus becoming part of the *Chancery Roll.*} The other is kept in the House of Lords (among the records stored in the Victoria Tower).{Thus being part of the *Rolls of Parliament.*} Prints for publication exactly correspond to these.

It sometimes happens (more frequently in recent times) that errors are discovered in the published print of an Act. The practice then is for the Clerk of the Parliaments to authorise HMSO to issue corrigendum slips. This is sometimes done even where the error is in the vellum copy. The practice is thus at variance with the statement in *Craies* that "The printers and officials clearly have no power to alter in any way the copy assented to, and it is for the judges or in the last resort for the legislature, to correct the error".{Craies *Statute Law* (7th edn.) p.522.} The copy assented to must surely be the *House Bill* in the form it is in at the time Assent is pronounced or signified.

*Variations in the case of private Bills*

A private Bill is founded upon a petition deposited by the promoter. Except as noted below, the procedure described in relation to public Bills applies in the same way to private Bills.

Private Bills are further subdivided into local and personal Bills. The Royal Assent formula for a local Bill is the same as for public Bills. For a personal Bill (such as a marraige or estate Bill) the formula is "Soit fait comme il est desire"("Let it be done as it is desired)".

The same subdivision is followed in relation to chapter numbers. Local Acts are numbered in a seperate series using lower case roman figures. The series comprising personal Acts is numbered in italic arabic figures. There are thus three series of chapter numbers altogether. Although from the Parliamentary viewpoint both local and personal Acts are private Acts, they are by statute declared to be public Acts to be judicially noticed as such unless the contrary is expressly provided by the Act.{Interpretation Act 1978, s.3. This replaces a similar provision in the Interpretation Act 1889 (s.9). That in turn reproduced s.7 of Lord Brougham's Act 1850 (13& 14 Vict. c. 21).} In practice such contrary provision is invariably inserted in personal Acts, but never in local Acts.

Under modern practice all private Acts are published, in the same way as public general Acts (though in a different series), by Her Majesty's Stationery Office. This enables personal Acts, which are not judicially noticed, to be proved simply by production of the HMSO print.{Evidence Act 1845, s.3; Documentary Evidence Act 1868, s.2.}

The components of private Acts are now the same as those of public general Acts. The last difference disappeared in 1960, when the standing order forbidding punctuation of private Bills was abrogated.

Public Bills have been fully punctuated for centuries, as the careful research of David Mellinkoff has shown.{David Mellinkoff, *The Language of the Law* pp.157 ff.}

*Royal Assent procedure and the interpreter*

Although the reality is now very different, the enacting formula still speaks of an Act as made "by" the Crown. In finalising the details of the text, the Crown still has a minor part to play. For this purpose, as we have seen, it acts through its officer, the Clerk of the Parliaments, who in turn acts through officials of the Public Bill Office.{The Clerk of the Parliaments is appointed by the Crown under s.2 of the Clerk of the Parliaments Act 1824. (The short title to this Act, incorrectly bestowed by the Short Titles Act 1896, was corrected by the Statute Law (Repeals) Act 1978, s. 2 and Sch. 3 para. 2.)} The wording as finalised, that is as contained in the two certified vellum copies,{See p.000, *ante*.}is not open to challenge. As Lord Campbell said in *Edinburgh and Dalkeith Railway Co.* v *Wauchope* : "All that a court of justice can do is to look to the Parliamentary roll".{(1842) 8 Cl. & F. 710, 725. Such inspections have from time to time been made. It was done at the trial of Sir Roger Casement, as appears from the report in the Law Journal (*R* v *Casement* (1917) 86 L.J.K.B. (n.s.) 482, 486).} Not even a private Act can be challenged - for example on the ground of a false statement in the preamble.{*British Railways Board* v *Pickin* [1974] A.C. 765.} Matters are different in countries where the legislative power is circumscribed by a written constitution.{See *Bribery Commissioner v Ranasinghe* [1965] AC 172.}

This incapacity of the courts to challenge the procedure by which a purported Act of Parliament has found its way on to the statute book is underlined by the ninth article of the Bill of Rights, with its statement that "proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament". The courts have held that it contravenes this provision to impugn the report of a Commons Select Committee.{*Dingle* v *Associated Newspapers Ltd.* [1960] 1 All E.R. 294.} Yet they have not felt themselves precluded by it from impugning the validity of certain components of an Act, such as headings and punctuation.{See for example Lord Reid's well-known dictum in *Inland Revenue Commissioners* v *Hinchy* : "Even if punctuation in more modern Acts can be looked at (which is very doubtful), I do not think one can have any regard to punctuation in older Acts" ([1970] A.C. 748,at p.765).}

Uncertainty caused by such judicial dicta led the Law Commissions in 1969 to suggest the enactment of a clarifying provision permitting reference to all components of an Act.{*The Interpretation of Statutes* Law Com. No. 21, Scot. Law Com. No. 11. See clause 1(1)(a) of the appended Bill.} The Government did not take up the Bill, and attempts by Lord Scarman to procure its enactment in 1980 and 1981 were unsuccessful.{For an account of the Bill and Lord Scarman's efforts see Bennion, 131 NLJ (1981), p.840.}

It is submitted that any suggestion that certain components of an
Act are to be treated, for reasons connected with their Parliamentary history, as not being part of the Act is unsound and contrary to principle. There are many instances of such suggestions in the reports. For example in *Re Woking U.D.C.* {[1914] 1 Ch. 300, 322} Phillimore L.J. referred to a "general rule of law" to the effect that marginal notes must be disregarded "upon the principle that those notes are inserted not by Parliament nor under the authority of Parliament, but by irresponsible persons." In fact, with occasional trifling exceptions, the marginal notes in an Act are *not* inserted by Parliamentary clerks, but are contained either in the Bill as introduced or in new clauses added by amendment. Furthermore the clerks are not "irresponsible persons". They are subject to the authority of Parliament. Objection may be taken by a Member to anything they do in relation to a Bill; and it would be open to either House, if it thought fit, to order rectification of a printing alteration considered unsuitable.

To suppose that the components of a Bill which are subject to printing corrections cannot be looked at in interpretation of the ensuing Act is to treat them as in some way "unreliable". No other ground could possibly justify their being ignored. Yet this goes against another principle of law, expressed in the maxim *omnia praesumuntur rite et solemniter esse acta donec probetur in contrarium* - every thing is presumed to be rightly and duly performed unless the contrary is proved.{Co.Litt. 232.}
This is an important principle in many fields of law. There is no justification for excluding Acts of

Parliament from its purview.

The suggestion that any component of an Act as it receives Royal Assent is in some way not "part" of the Act is open to objection on another ground. It introduces a distinction between the interpretation of Acts and that of statutory instruments which would be anomalous and unacceptable. A statutory instrument, while sometimes subject to Parliamentary procedure, is never capable of amendment by Parliament. It follows that it is not subject to the making of printing corrections by Parliamentary clerks. The headings, marginal notes and punctuation of a statutory instrument are as much part of the instrument as any other component. To avoid an unjustified distinction (never drawn in practice) the same must be taken to be true of an Act. {In its 1969 report on interpretation, the Law Commission said 'it seems clear that the courts when dealing with [delegated] legislation apply the same general common law principles of interpretation which they apply to statutes'. The only exception noted was the obvious one related to the ***ultra vires*** doctrine (which applies to delegated legislation, but not to statutes of the Westminster parliament). See *The Interpretation of Statutes* (LAW COM. No. 21), para.77.}

Knowledge of the relevant parliamentary procedure (including Royal Assent procedure) will assist the interpreter to give correct weight to each component of an Act, judged as an aid to construction. Some, although part of the Act, carry little if any weight for this purpose. They are intended as nothing more than quick guides to content. Others owe their presence in the Act wholly or mainly to the procedural rules applicable to Parliamentary Bills, and are to be regarded in that light.

*Author's Note* I gratefully acknowledge the assistance in preparing this article of the authorities of the two Houses of Parliament. Without that help it would not have been possible for me to include the factual information contained in it. Responsibility for expressions of opinion must of course be mine alone.

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