

~~~~~ **Interpreting Taxing Statutes # 113 – Report of legislative debates**

Under the rule in *Pepper v Hart*, the court may have regard to reports of the legislative debates on a Bill for the purpose of ascertaining the meaning of a provision of the resulting Act where the provision is ambiguous or obscure, or leads to an absurdity. [Ben 24.11]

SYNOPSIS

The decision in Pepper v Hart

The decision in *Pepper v Hart* concerned an ambiguous provision of tax legislation. When the matter initially came before the House of Lords on reference was made to parliamentary proceedings. It subsequently became apparent that, during the passage of the Bill through Parliament, the Financial Secretary to the Treasury, had, in effect, assured the House of Commons that a tax should not be imposed in the kind of case that was in dispute. The case was listed for a further hearing before a seven-judge panel which decided, by a 6:1 majority, to relax the rule excluding reference to parliamentary material when certain strict conditions were met. Relying heavily on the Financial Secretary's statements in Parliament, they found in favour of the taxpayer.

Justified this relaxation of the exclusionary rule on the basis that it would amount to giving effect to Parliament's true intention. The practical difficulty of accessing Parliamentary material and the cost and delay in researching it could be overstated and did not 'outweigh the basic need for the courts to give effect to the words enacted by Parliament in the sense that they were intended by Parliament to bear'.

Identified three conditions that must be met before parliamentary material may be relied upon

'I therefore reach the conclusion, subject to any question of Parliamentary privilege, that the exclusionary rule should be relaxed so as to permit reference to Parliamentary materials where (a) legislation is ambiguous or obscure, or leads to an absurdity; (b) the material relied upon consists of one or more statements by a Minister or other promoter of the Bill together if necessary with such other Parliamentary material as is necessary to understand such statements and their effect; (c) the statements relied upon are clear.'

Hansard not a transcript It is worth bearing in mind that Hansard, the report of proceedings in Westminster, is not a transcript but an edited record, so

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there is always, a risk (albeit relatively slight) that minor nuances or connotations may be lost.