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Stephen E. Young

*The Catholic University of America, Columbus School of Law*

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# “By Command of Her Majesty”: An Introduction to the Command Papers of the United Kingdom\*

Stephen E. Young\*\*

*Mr. Young explores the history, format, and arrangement of the Command Papers. He provides a brief description of their availability in hard copy and electronic formats, and also describes the availability and use of various indexing tools for this series of parliamentary papers.*

¶1 The use of parliamentary papers<sup>1</sup> as a legal research tool, particularly those produced for the benefit of the country’s legislative body by government departments and agencies, is not unique to the United Kingdom.<sup>2</sup> The role played by Command Papers in the United Kingdom, however, is unlike that of any comparable document in the United States. Furthermore, this category of materials is often overlooked by researchers whose familiarity with the country’s legal research begins and ends with the *Law Reports* and *Halsbury’s Statutes of England and Wales*.<sup>3</sup>

¶2 Command Papers constitute one of the five main types of parliamentary papers.<sup>4</sup> The other types are House of Commons Bills, House of Commons Papers, House of Lords Papers, and House of Lords Bills.<sup>5</sup> The term Command Papers is

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\*\* Collection Management Librarian and Jamail Fellow, Jamail Center for Legal Research, Tarlton Law Library, University of Texas at Austin, Austin, Texas.

1. The term “parliamentary papers” is used to denote documents that are required by Parliament in the conduct of its business.
2. Many present and former Commonwealth countries, e.g., Australia and Canada, make use of this type of document. One example of this is the Reports of Canadian Royal Commissions of Inquiry which are laid before federal Parliament. These are considered parliamentary papers and are often consulted by researchers.
3. There are many excellent guides to legal research in the United Kingdom which can assist the librarian or the researcher. In particular I recommend PHILIP A. THOMAS & CATHERINE COPE, *HOW TO USE A LAW LIBRARY: AN INTRODUCTION TO LEGAL SKILLS* (3d ed. 1996); GUY HOLBORN, *BUTTERWORTHS LEGAL RESEARCH GUIDE* (1993); PETER CLINCH, *USING A LAW LIBRARY: A STUDENT’S GUIDE TO LEGAL RESEARCH SKILLS* (1992).
4. See INFO. OFFICE, HOUSE OF COMMONS LIBRARY, U.K. PARLIAMENT, *FACTSHEET No. 19: COMMAND PAPERS 1* (1998), available at House of Commons, *Factsheet No. 19: Command Papers* (July 1998) <<http://www.parliament.uk/commons/lib/fs19.pdf>> [hereinafter *FACTSHEET No. 19*].
5. A more complete description of the various types of parliamentary papers may be found in DAVID BUTCHER, *OFFICIAL PUBLICATIONS IN BRITAIN 19* (2d ed. 1991), and particularly in PERCY FORD & GRACE FORD, *A GUIDE TO PARLIAMENTARY PAPERS: WHAT THEY ARE, HOW TO FIND THEM, HOW TO USE THEM 1* (1972).

derived from the formula that appears on the cover of each paper: "Presented to Parliament by the Secretary of State for . . . by Command of Her Majesty." Over the years the wording of this formula has changed,<sup>6</sup> but the purpose of the papers has remained the same; they serve as a vehicle for the government,<sup>7</sup> usually through a minister of the Crown, to bring to the attention of Parliament matters that are deemed important. Command Papers are used as a discretionary, technical device to allow documents that originate outside of Parliament an opportunity to be introduced to Parliament.<sup>8</sup> For the legal researcher these documents provide insight into the formulation of government policy and thinking.

### History

¶3 Although Command Papers existed in the eighteenth century, their beginnings as a distinct class of parliamentary papers are traced to 1833 when the first series began publication. Prior to 1833 Command Papers were usually published as appendixes to the *House of Commons Journal*. During the early nineteenth century the quantity and size of Command Papers rapidly increased, due more to political than social reasons.<sup>9</sup> This growth in both quantity and size made them difficult to use as a mere appendix, and therefore the decision was made to publish them as a separate series.

### The Command Papers Series

¶4 The first series (1833–1869) consisted of 4,222 individual papers laid before Parliament. This, the only unprefixed series, also saw the beginning of contract printing.<sup>10</sup> Prior to this time all Command Papers were published by the Printer to the House, Luke Hansard.<sup>11</sup> Papers from this first series are identified only by their title and a sequential number.<sup>12</sup>

¶5 After the first series, all papers are identified by their title and a sequential number preceded by a series identifying abbreviation for the word "Command." It should be noted that this sequential number, unlike numbering for most other parliamentary papers, does not reflect changes in Parliamentary session. Instead, it runs continuously from one session to another.

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6. The original formula read "Presented to Parliament . . . by Command of His (or Her) Majesty."

7. Despite their name it should be noted that the monarchy has no direct involvement with the preparation of these documents.

8. See JOHN PEMBERTON, *BRITISH OFFICIAL PUBLICATIONS* 57 (1973).

9. See FACTSHEET No. 19, *supra* note 4, at 1.

10. See ELIZABETH MOYS, *MANUAL OF LAW LIBRARIANSHIP* 225 (2d ed. 1987).

11. See FORD & FORD, *supra* note 5, at 24.

12. Researchers should note that the series number is not printed on the papers in the first series.

Series	Prefix Designation	Years of Publication
[1st Series]	1-4220	1833-1869
2d Series	C1-C9550	1870-1899
3d Series	Cd 1-Cd 9239	1900-1918
4th Series	Cmd 1-Cmd 9889	1919-1956
5th Series	Cmnd 1-Cmnd 9927	1956-November 1986
6th Series	Cm 1-Cm	November 1986-present

Figure 1. Coverage of Command Papers Series

¶6 Two points should be clear from reading figure 1. First, the frequency of publication of Command Papers has varied greatly. This variation in series size and duration is a reflection of the extent to which individual governments sought to use Command Papers as a format for expressing and disseminating information. The World War I era was a particularly prolific period, but the post-war period saw a dramatic reduction in the number of Command Papers published due to economic restrictions imposed by the government.<sup>13</sup> Second, the abbreviation for the word “Command” plays an essential role in the locating of a specific paper. If the abbreviation is either not known, or is incorrect, it is possible that the researcher may have to choose from one of six papers with the same number.

### The Categories of Command Papers

¶7 The first point of confusion for the researcher is often understanding what is meant by the term “Command Papers.” It is important to realize that this is an umbrella term that encompasses a number of different categories of documents. The broad categories into which Command Papers usually fall include: statements of government policy (“white papers”), consultative documents (“green papers”), reports of royal commissions, reports of committees, reports of tribunals and boards of inquiry, state papers (including treaties), and statistical and annual Reports.<sup>14</sup>

13. Ministers were instructed to present Command Papers only if they were “documents relating to matters likely to be the subject of early legislation, or which may be regarded as otherwise essential to Members of Parliament as a whole to enable them to discharge their responsibilities,” TREASURY CIRCULAR No. 38 (1921), *quoted in* FACTSHEET No. 19, *supra* note 4, at 2.

14. THOMAS & COPE, *supra* note 3, at 88.

*“White Papers” and “Green Papers”*

¶8 Confusing the issue further is the use of the terms “white paper”<sup>15</sup> and “green paper.”<sup>16</sup> The first of these refers to statements of government policy. These form one of the most important categories of Command Papers. In 1969 the Prime Minister described a white paper as indicating “the broad lines of the legislation the Government intend to introduce and, very often, of executive action that will be taken.”<sup>17</sup> White papers should be viewed as proposals by the government for legislative action, and therefore their substance is often encapsulated in the Queen’s speech at the state opening of Parliament.

¶9 A “green paper” is a consultative document. It is designed to offer options and to pose questions that need to be answered in order for the government to formulate policy. A green paper is not a statement of government policy, but rather “a statement by the Government not of policy already determined, but of propositions put before the whole nation for discussion.”<sup>18</sup> A green paper is designed to stimulate responses from the public and interested parties, and therefore it needs to provide a framework of focused policy issues for discussion. This can later form an important basis for policy proposals and formulation. It is perhaps easiest to think of a green paper as the precursor to a white paper,<sup>19</sup> although it should also be understood that a white paper can be issued without an earlier green paper.

¶10 Not all green and white papers are Command Papers.<sup>20</sup> In many circumstances the government may decide that the matter is not sufficiently important to warrant the issuing of a policy statement or a consultative paper as a Command Paper. In those cases the material is either announced in Parliament and subsequently recorded in *Hansard*,<sup>21</sup> or is published separately by the individual department or by the Stationery Office as a non-Parliamentary paper.<sup>22</sup>

15. The term “white paper” is derived from the appearance of the document. These papers were not of sufficient size to warrant binding and were therefore printed with just white paper covers.

16. The first use of the term “green paper” was in reference to DEP’T OF ECON. AFFAIRS & H.M. TREASURY, *THE DEVELOPMENT AREAS: A PROPOSAL FOR A REGIONAL EMPLOYMENT PREMIUM* (1967). This first document announcing tentative government proposals had a green cover.

17. 783 PARL. DEB., H.C. (5th ser.) 1220 (1969) (remarks of Harold Wilson, Prime Minister).

18. 747 PARL. DEB., H.C. (5th ser.) 651 (1967) (remarks of Michael Steward, MP, Secretary of State for Economic Affairs).

19. In January 1989 three green papers were issued soliciting feedback from the public on the subject of how legal services in the United Kingdom could be improved for the general public. These green papers resulted in sufficient responses for the government to issue a white paper in July 1989 outlining its policies for the revision of legal services, *LEGAL SERVICES: A FRAMEWORK FOR THE FUTURE*, 1989, Cm. 740. The publication of the white paper was quickly followed by the passage of a bill through the next session of Parliament and the eventual receipt of Royal Assent by the Courts and Legal Services Act, 1990, ch. 41 (Eng.).

20. See BUTCHER, *supra* note 5, at 36.

21. “Hansard” is the popular name for the *Parliamentary Debates (Hansard) Official Report*.

22. It should be noted that for the first two years of their publication, green papers were considered non-Parliamentary publications.

### *Royal Commissions and Tribunals*

¶11 A royal commission is an investigative body established by royal warrant for the purpose of reporting on a particular event or subject.<sup>23</sup> The final report issued by a royal commission will usually contain nonbinding recommendations or guidelines for the government to consider. The commission's tenure usually expires at the completion of its report; however, there are a few standing commissions such as the Royal Commission on Environmental Pollution and the Royal Commission on Historical Manuscripts.

¶12 As their name implies, the sovereign, not Parliament, establishes royal commissions. Therefore, their final reports are addressed to the Crown and then presented "by command" to Parliament. It is important to note that the final report issued by a royal commission is often referred to by the name of the commission's chairman. For instance, the report of the royal commission established to investigate the Brixton riots of 1981 is known as *The Scarman Report*,<sup>24</sup> named after the chairman of the commission, Lord Scarman.

¶13 Although fewer in number, the reports of tribunals are regarded as important in the prelegislative process as the reports of royal commissions. Usually tribunals are established for the purpose of investigating matters of national security or government conduct.<sup>25</sup> Tribunals are established by either the Crown or a secretary of state. They are assigned powers by Parliament that reflect their quasi-judicial status;<sup>26</sup> however, the use of their powers has come under scrutiny by a royal commission.<sup>27</sup> A famous example of a tribunal report is the one generated by the tribunal that investigated the effect on national security caused by the resignation of John Profumo, the former Secretary of State for War.<sup>28</sup>

### *The Law Commission*

¶14 The Law Commission and the Scottish Law Commission<sup>29</sup> were established by the Law Commissions Act 1965<sup>30</sup> to promote the reform of the law. These permanent advisory bodies review the law and the legal system and, based on their findings, provide recommendations to the government. Their work focuses on reform through codification, consolidation, repeal of outdated legislation, and simplification of the law.

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23. PEMBERTON, *supra* note 8, at 74.

24. THE SCARMAN REPORT: THE BRIXTON DISORDERS, 1981, Cmnd. 8427.

25. See JAMES G. OLLE, AN INTRODUCTION TO BRITISH GOVERNMENT PUBLICATIONS 31 (1965).

26. See The Tribunals of Inquiry (Evidence) Act, 1921, 11 & 12 Geo. 5, ch. 7 (Eng.).

27. THE ROYAL COMMISSION ON TRIBUNALS OF INQUIRY, 1966, Cmnd. 3121.

28. LORD DENNING'S REPORT, 1963, Cmnd. 2152.

29. It is always important for the researcher to remember that although the United Kingdom is a unitary state, it contains three legal systems: one for England and Wales, one for Northern Ireland, and one for Scotland.

30. Law Commissions Act, 1965, ch. 22 (Eng.).

¶15 Traditionally, the Law Commission will publish a consultation document<sup>31</sup> which is used to solicit information from various bodies prior to publishing its final report. Although, the Law Commission's consultation papers are considered nonparliamentary publications,<sup>32</sup> their final reports on consolidating legislation are published as part of the Command Papers series. It is important to note that the publications of the Law Commission have their own numbering scheme. This number is in addition to the Command Paper or House of Commons Paper number<sup>33</sup> that may also be assigned.

### *State Papers*

¶16 Approximately half of the over 300 Command Papers presented to each session of Parliament fall into the category of state papers. This category can be further broken down into five distinct series: the Treaty series, the European Communities series, the Transport series, the "Country" series, and the Miscellaneous series.<sup>34</sup>

¶17 Of all the different categories and subcategories of Command Papers, treaties form the most distinct series. In addition to their Command Paper series number, treaties are also issued a unique Treaty Series (T.S.) number to aid in their location. It is not unusual for the T.S. number to be the only number referenced, and the Command Paper series number to be dropped. The text of ratifications and accessions to treaties, and withdrawals from them, are issued individually as part of the Treaty Series. Access to treaties is usually through either the *General Index to Treaty Series* or through the *Index of British Treaties 1101–1968*.

¶18 The other types of State Papers—the European Communities Series, the Transport Series, the "Country" Series, and the Miscellaneous Series—are not referred to as often by legal researchers, nor are they as numerous, as the Treaty Series. They should, however, be noted so as to avoid confusion. The European Communities Series consists of documents concerned with the United Kingdom's relations with the European Union and its member countries.<sup>35</sup> The Transport Series comprises documents relating to aviation, shipping, and other forms of commercial and passenger transportation between the United Kingdom and other states. The "Country" Series<sup>36</sup> gathers together individual documents, excluding treaties and other formal agreements, specific to a country. This may include

31. This document is referred to as a consultation paper when issued by the Law Commission and as a discussion paper when issued by the Scottish Law Commission.

32. See BUTCHER, *supra* note 5, at 33.

33. A separate numbering scheme also exists for the discussion papers and documents produced by the Scottish Law Commission.

34. See BUTCHER, *supra* note 5, at 37.

35. Traditionally these have taken the form of trading agreements and usually begin with the word "Convention."

36. "Country" is the popular name used for this series; there is no official name for it.

reports written about a country's economy, culture, or strategic importance. The Miscellaneous Series, as its catch-all title implies, consists of various reports on the United Kingdom's relations with other countries, the text of conventions, and other documents relating to foreign affairs.

### *Annual Reports and Statistical Reports*

¶19 Although this category of Command Papers at one time constituted a relatively voluminous amount of material, in recent years the number has decreased.<sup>37</sup> This decline has been attributed to two causes: a reluctance on behalf of the various government bodies and agencies to publish their reports in the standard royal octavo size; and second, a more selective determination by the government bodies and agencies of which documents are suitable for the Command Papers series.<sup>38</sup> Today this category includes statistical reports from the Judiciary, Customs and Excise Commissioners, and the Prisons Ombudsman. Annual reports are also issued by a number of government bodies in the form of a Command Paper. This body of official documents represents approximately 10 percent of all the Command Papers published<sup>39</sup> and includes material such as the *Annual Report of the Commissioners of Her Majesty's Inland Revenue*.

### **Availability and Arrangement of Command Papers**

¶20 Traditionally Command Papers have been made available through the publishing arm of the government, Her Majesty's Stationery Office (H.M.S.O.). The privatization of this department in fall 1996<sup>40</sup> resulted in the creation of the Stationery Office (S.O.), which continues to supply print versions of Command Papers either individually, through subscription, or on standing order. However, the arrangement of these documents by individual libraries varies greatly. Many libraries prefer to treat each Command Paper as an individual document and therefore catalog them separately. This has the effect of distributing the Command Papers throughout the library's collection. Other libraries prefer to treat the documents as a series and retain them together on the shelf in series number order.

¶21 In recent years the Command Papers have become available in electronic format. The Stationery Office has made a commitment to provide full-text

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37. See FACTSHEET NO. 19, *supra* note 4, at 4.

38. *Id.*

39. See BUTCHER, *supra* note 5, at 39.

40. As of April 1, 1999, the four divisions of the Stationery Office began trading as new independent companies. The National Publishing division, the division of the S.O. with responsibility for publishing Command Papers, became the Stationery Office.



versions of selected Command Papers on their *Official Documents* Web site.<sup>41</sup> The documents, arranged alphabetically, are usually in HTML format, although a number are available either additionally or only as PDF files. The effect of this policy has been to provide immediate public access to documents such as *Scotland's Parliament*,<sup>42</sup> and *The Stephen Lawrence Inquiry*,<sup>43</sup> on the same day that the print version is published. The impact of this is perhaps felt most strongly outside of the United Kingdom, where traditionally a lengthy period elapsed between publication of a Command Paper and its availability.

¶22 Although the Stationery Office's *Official Documents* site for Command Papers is very convenient to users, it must be remembered that it is also very selective. For example, papers in the Treaty Series have not appeared on this site. However, the researcher needing access to a Command Paper not available on the *Official Documents* site does have an alternative: the *British Official Publications Current Awareness Service* Web site, or *BOPCAS*.<sup>44</sup> The *BOPCAS* Web site provides paying subscribers with access to many types of material, not just Command Papers, some of which are otherwise unavailable either electronically or in hard copy. This service is based in the Ford Collection of British Official Publications in the Hartley Library at the University of Southampton, England. Material on this site is arranged chronologically by year and month of publication.

¶23 The two services described above, *Official Documents* and *BOPCAS*, should be viewed as collective resources for Command Papers. They include documents from a variety of government departments and agencies. However, individual departments and agencies sometimes make Command Papers they have produced available on their own Web sites. The easiest way to locate these sites is by using the "Open Government" Web site of the Central Computer and Telecommunications Agency.<sup>45</sup> This site provides the user with an alphabetical index of local and national government entities in the United Kingdom that maintain Web sites.

### Indexes and Other Finding Tools

¶24 The first reference to the publication of a Command Paper appears in the Stationery Office's *Daily List* which cumulates into the *Monthly Catalogue*. This

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41. The Stationery Office, *Official Documents* (visited May 11, 1999) <<http://www.official-documents.co.uk/menu/compap.htm>>.

42. SCOTLAND'S PARLIAMENT, 1997, Cm. 3658, available in <<http://www.scottish-devolution.org.uk/frame.htm>>.

43. THE STEPHEN LAWRENCE INQUIRY, 1999, Cm. 4262, available in the Stationery Office, *Official Documents* (Feb. 1999) <<http://www.official-documents.co.uk/document/cm42/4262/4262.htm>>.

44. *British Official Publications Current Awareness Service* (visited Oct. 25, 1999) <<http://www.soton.ac.uk/~bopcas/>>.

45. *Central Computer and Telecommunications Agency* (visited Oct. 25, 1999) <<http://www.open.gov.uk/index/orgindex.htm>>.

is available in both print and electronic formats.<sup>46</sup> Subsequent electronic references appear on the *Official Documents* and *BOPCAS* Web sites, as well as sites maintained by individual government agencies.

¶25 Subject indexing of the Command Papers series is a component of the *General Index* to Parliamentary papers. This series of indexes has been produced since 1801 by the House of Commons Library, and it is issued initially as individual indexes to each session of Parliament. These sessional indexes are cumulated decennially and every fifty years.<sup>47</sup> There may be occasions when only the number of the Command Paper is known to the researcher. John Pemberton, however, has compiled a useful concordance which cross-references a Command Paper number with a session of Parliament.<sup>48</sup> In addition, the finding lists compiled by Di Roma and Rosenthal,<sup>49</sup> and McBride<sup>50</sup> are also useful resources to consult.

¶26 Older Command Papers are most commonly traced using the various lists and breviates of parliamentary papers compiled by the Fords.<sup>51</sup> These publications provide the researcher with a fairly comprehensive index to the Command Paper series. Access to Command Papers published prior to the printing of the first series in 1833 is usually performed by using *Hansard's Catalog*.<sup>52</sup>

¶27 Treaties are often indexed separately from the other documents in the Command Papers series. Annual and cumulative<sup>53</sup> indexes exist for the Treaty Series, and in addition, comprehensive chronological indexes to this large body of information have also been published.<sup>54</sup>

## Conclusion

¶28 Command Papers are an essential weapon in the arsenal of someone researching legislation in the United Kingdom. Although they comprise many different categories of documents, collectively they provide an insight into the shaping of

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46. *Daily List* (visited May 14, 1999) <<http://www.tsonline.co.uk/>>.

47. For a good description of the various components of the *General Index*, see FRANK RODGERS, *SERIAL PUBLICATIONS IN THE BRITISH PARLIAMENTARY PAPERS 1900–1968*, at xi (1971).

48. PEMBERTON, *supra* note 8, at 65.

49. EDWARD DI ROMA & JOSEPH A. ROSENTHAL, *A NUMERICAL FINDING LIST OF BRITISH COMMAND PAPERS PUBLISHED 1833–1961/62* (1967).

50. ELIZABETH A. MCBRIDE, *BRITISH COMMAND PAPERS: A NUMERICAL FINDING LIST 1962/63–1976/77* (1982).

51. PERCY FORD & GRACE FORD, *A SELECT LIST OF BRITISH PARLIAMENTARY PAPERS 1833–1899* (1953); PERCY FORD & GRACE FORD, *A BRIEVATE OF PARLIAMENTARY PAPERS 1940–1954* (1961); PERCY FORD & GRACE FORD, *A BRIEVATE OF PARLIAMENTARY PAPERS 1917–1939* (1951); PERCY FORD & GRACE FORD, *A BRIEVATE OF PARLIAMENTARY PAPERS 1900–1916* (1957).

52. HOUSE OF COMMONS, *HANSARD'S CATALOG AND BRIEVATE OF PARLIAMENTARY PAPERS 1696–1834* (photo. reprint 1953) (1836).

53. The cumulative versions of the *General Index to Treaty Series* ceased publication in 1969.

54. See CLIVE PERRY & CHARITY HOPKINS, *AN INDEX OF BRITISH TREATIES, 1101–1968* (1971).

government policy and legislation designed to effectuate that policy. In the prelegislative process they act as an indispensable tool for a variety of parties needing to present information to Parliament. They also serve as a point of reference for researchers compiling legislative histories. Their recent availability in electronic format allows the researcher in the United States an opportunity to stay current with legislative developments in England and the rest of the United Kingdom. Their impact was never more realized by the law librarian in the United States than in December 1998 when the Lord Chancellor's Department issued its far-reaching white paper on modernizing the judicial system.<sup>55</sup> The simultaneous release of this document in paper and electronic formats offered interested parties in the United Kingdom, the United States, and around the world a glimpse into the future of the legal system in England.

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55. MODERNISING JUSTICE: THE GOVERNMENT'S PLANS FOR REFORMING LEGAL SERVICES AND THE COURTS, 1998, Cm. 4155, available in Lord Chancellor's Dep't, *Access to Justice* (visited Oct. 26, 1999) <<http://www.open.gov.uk/lcd/consult/access/mjwpindex.htm>>.