

Winter 1973

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### Recommended Citation

Donald E. Woody, *Statutory Interpretation—The Need for Improved Legislative Records in Missouri*, 38 Mo. L. REV. (1973)

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## STATUTORY INTERPRETATION—THE NEED FOR IMPROVED LEGISLATIVE RECORDS IN MISSOURI

*A page of history is worth a volume of logic*<sup>1</sup>

### I. INTRODUCTION<sup>2</sup>

Because of the growing volume<sup>3</sup> and complexity of modern day legislation, attorneys and courts engage more frequently than ever before in the process of statutory interpretation. The purpose of this comment is to analyze the desirability and feasibility of producing legislative committee reports and reporting committee hearings and floor debates of the Missouri General Assembly to aid the courts and attorneys in the interpretation of statutes. This comment will examine (1) the Missouri courts' use of legislative aids in statutory interpretation, (2) the reasons for improving the present system of legislative record keeping, and (3) the various methods of record keeping that the Missouri legislature might adopt.

### II. THE USE OF LEGISLATIVE RECORDS IN MISSOURI

#### A. *Determining Legislative Intent and the Plain Meaning Rule*

Missouri courts follow the universally accepted principle<sup>4</sup> that the primary purpose of all statutory interpretation is to determine and effectuate the legislative intent behind the statute.<sup>5</sup> In fact, the court has a duty to limit itself to this purpose;<sup>6</sup> all other judicial principles of interpretation are subordinate.<sup>7</sup> Although the Missouri courts always apply this basic principle in statutory interpretation cases, scholarly debate continues as to whether legislative intent can be ascertained.<sup>8</sup> Some scholars take the view that no collective legislative intent exists.<sup>9</sup> Others argue that legislative intent can definitely be determined.<sup>10</sup> To believe otherwise is to deny any relationship between what the legislators do as a body in enacting a bill and the language of the statute finally adopted.<sup>11</sup> The

1. *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921) (opinion by Holmes, J.).

2. The author would like to extend his appreciation to the state legislators and legislative employees not cited whose information and assistance helped make this comment possible.

3. In 1971 alone, Missouri's General Assembly enacted 247 bills into law during its regular session from January 6 to June 30. COUNCIL OF STATE GOVERNMENTS, *BOOK OF THE STATES 75* (1972-73).

4. Note, *Trends in the Use of Extrinsic Aids in Statutory Interpretation*, 3 *VAND. L. REV.* 586 (1950).

5. See, e.g., *Missouri Pac. R.R. v. Kuehle*, 482 S.W.2d 505, 509 (Mo. 1972); *Flarsheim v. Twenty Five Thirty Two Broadway Corp.*, 432 S.W.2d 245, 251 (Mo. 1968); *Collier v. Roth*, 468 S.W.2d 57, 59 (Spr. Mo. App. 1971).

6. *State v. Brady*, 472 S.W.2d 356, 358 (Mo. 1971).

7. *State ex rel. Schwab v. Riley*, 417 S.W.2d 1, 4 (Mo. En Banc 1967).

8. For an excellent discussion of the continuing battle as to whether legislative intent can be ascertained, see MacCallum, *Legislative Intent*, 75 *YALE L.J.* 754 (1966).

9. Radin, *Statutory Interpretation*, 43 *HARV. L. REV.* 863, 870 (1930).

10. Landis, *A Note on "Statutory Interpretation,"* 43 *HARV. L. REV.* 886, 888-89 (1930).

11. De Sloovere, *Extrinsic Aids in the Interpretation of Statutes*, 88 *U. PA. L. REV.* 527, 538 (1940).

best view is that legislative intent exists in the general policy behind the statute and that it can be determined by examining the conditions or evils that the statute is supposed to eliminate.<sup>12</sup>

In their efforts to effectuate this legislative intent, the courts often use the plain meaning rule.<sup>13</sup> This rule is that when a statute is unambiguous on its face, it must be given effect as written, with the language taking its plain and ordinary meaning.<sup>14</sup> It is contended that the plain meaning rule rests upon precarious grounds: (1) It rests upon the erroneous assumption that all words in the statute have a fixed and clear meaning and will always accurately reflect the intent of the legislature if used in their ordinary sense;<sup>15</sup> (2) it also assumes both that the legislators anticipate all situations that will arise and that they can always secure approval by a majority without intentionally including vague, general terms in the statute.<sup>16</sup>

In any event, the effect of the rule is to preclude the courts from investigating the extraneous matters and circumstances surrounding the statute's passage.<sup>17</sup> The virtual impossibility of determining when the courts will find the statute's language ambiguous<sup>18</sup> makes it difficult to predict when they will resort to legislative records.<sup>19</sup>

#### B. Use of Legislative Records

Regardless of the uncertain application of the plain meaning rule, when the Missouri courts find the statute ambiguous, they will resort to extraneous materials to determine the intent of the lawmakers.<sup>20</sup> Of

12. This view was probably best stated by Lord Coke in *Heydon's Case*, 76 Eng. Rep. 637 (Ex. 1584):

[F]or the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law,) four things are to be discerned and considered:

1st. What was the common law before the making of the Act.

2nd. What was the mischief and defect for which the common law did not provide.

3rd. What remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth.

And, 4th. The true reason of the remedy. And then the office of all Judges is always to make such construction as shall suppress the mischief and advance the remedy and to suppress subtle inventions and evasions for continuance of the mischief . . . and to add force and life to the cure and remedy according to the true intent of the makers of the Act. . . .

*Id.* at 638 (emphasis added).

See also Note, *The Use of Contemporaneous Circumstances and Legislative History in the Interpretation of Statutes in Missouri*, 1952 WASH. U.L.Q. 265, 266.

13. See, e.g., *State v. Brady*, 472 S.W.2d 356, 358 (Mo. 1971); *State v. Moore*, 408 S.W.2d 47, 49 (Mo. En Banc 1966).

14. *City of St. Louis v. Crowe*, 376 S.W.2d 185, 189-90 (Mo. 1964). See also *Julian v. Mayor*, 391 S.W.2d 864, 866 (Mo. 1965).

15. Comment, *A Re-evaluation of the Use of Legislative History in the Federal Courts*, 52 COLUM. L. REV. 125, 134 (1952).

16. Johnstone, *An Evaluation of the Rules of Statutory Interpretation*, 3 KAN. L. REV. 1, 20 (1954).

17. Note, *supra* note 12, at 267.

18. *Id.* at 268.

19. *Id.*

20. See, e.g., *Mashak v. Poelker*, 367 S.W.2d 625, 626 (Mo. En Banc 1963); *Millspaugh v. Kesterson*, 307 Mo. 185, 193, 270 S.W. 110, 112 (En Banc 1925).

primary concern here is the extent to which the courts would resort to legislative records if they were available. Several factors indicate the approach the courts would take. First, in most cases where a provision of the Missouri Constitution is in question, the courts have been willing to turn to records of the constitutional debates to determine the purpose and scope of the provision involved.<sup>21</sup> The court's statement in *Preisler v. Hayden*<sup>22</sup> demonstrates the weight given these records as a reflection of the drafters' intent:

The Debates of the Constitutional Convention, which it is proper to consult (as plaintiff contends) in determining the meaning of Constitutional provisions . . . clearly show . . . the purpose of this Section . . . .<sup>23</sup>

In *Stemmler v. Einstein*,<sup>24</sup> the court stated that "[t]he debates of the 1944 Constitutional Convention lend much color to our conclusions . . . ."<sup>25</sup>

Another indication that the courts will use legislative records appears in *American National Insurance Co. v. Keitel*.<sup>26</sup> In that case, the provision of Missouri's Unemployment Compensation Act<sup>27</sup> that the court was interpreting contained the same language as a provision of the Federal Unemployment Tax Act.<sup>28</sup> Because Missouri had adopted the same language and lacked its own legislative records, the Missouri Supreme Court turned to the congressional records to find the federal legislative intent.<sup>29</sup> The court presumed that the Missouri legislature knew of the interpretation placed on the statute during debates in the Senate<sup>30</sup> and found the comments made in those debates conclusive as to the legislative intent behind the statute.<sup>31</sup>

The most recent indication appeared in *Bullington v. State*.<sup>32</sup> The court there relied on the meager legislative records available:

While the statutes themselves constitute the principal evidence from which the intent of the legislature must be discerned, we may consider the official Journals of the House and Senate as indicia of legislative intent where, as here, two laws exist and ambiguity arises from the fact of their concurrent existence.<sup>33</sup>

21. See *Preisler v. Hayden*, 309 S.W.2d 645, 646 (Mo. 1958); *Stemmler v. Einstein*, 297 S.W.2d 467, 475 (Mo. En Banc 1956); *State ex rel. Donnell v. Osburn*, 347 Mo. 469, 479-80, 147 S.W.2d 1065, 1068 (En Banc 1941); *State ex rel. Heimberger v. Board of Curators of Univ. of Mo.*, 268 Mo. 598, 616, 188 S.W. 128, 132 (En Banc 1916).

22. 309 S.W.2d 645 (Mo. 1958).

23. *Id.* at 646.

24. 297 S.W.2d 467 (Mo. En Banc 1956).

25. *Id.* at 475.

26. 353 Mo. 1107, 186 S.W.2d 447 (1945).

27. Mo. Laws 1941, at 582, § 9423 (i) (6) (m).

28. INT. REV. CODE of 1939, ch. 666, § 1607 (c) (14), 53 Stat. 1395.

29. 353 Mo. at 1111, 186 S.W.2d at 448.

30. *Id.* at 1111-12, 186 S.W.2d at 448.

31. *Id.* at 1114, 186 S.W.2d at 450.

32. 459 S.W.2d 334 (Mo. 1970).

33. *Id.* at 338.

## III. IMPETUS FOR IMPROVEMENT

Despite the Missouri courts' willingness to follow the lead of the federal courts<sup>34</sup> in resorting to legislative records, these records are virtually non-existent in Missouri.<sup>35</sup> The legislature does not report its floor debates, committee hearings or any type of substantive committee reports.<sup>36</sup> The only records currently available are the official legislative *Journals*<sup>37</sup> and a few reports on certain bills before the Assembly.<sup>38</sup> The journals are of little value, because the data they contain relates only to the report of the bill out of committee (as "do pass" or "do not pass"), the reading of the bill, and the final vote on the bill.<sup>39</sup> With the exception of the Senate Appropriations Committee, no committee records its committee hearings.<sup>40</sup> Because this lack of legislative records exists generally, an estimated 99 percent of all cases dealing with statutory interpretation are decided without the aid of any legislative records.<sup>41</sup>

The important question, then, is what is the effect of this lack of adequate records? This might best be illustrated by an example. In two different cases, the Missouri Supreme Court and the United States Supreme Court inquired into the legislative intent behind similar state and federal statutes. The intent behind the Missouri statute was important in *State v. Carolene Products*<sup>42</sup> because there was conflicting language within it. With no legislative records available, the Missouri court relied solely upon the language of the statute and the following two maxims of construction: (1) "[W]here there is irrevocable conflict between two different parts of the same act, as a rule the last in order of position will control . . ." <sup>43</sup>; (2) "where there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, . . . the special will prevail over the general . . ." <sup>44</sup>

34. See Jones, *Extrinsic Aids in the Federal Courts*, 25 IOWA L. REV. 737 (1940); Comment, *Some Comments Concerning the Use of Legislative Debates and Committee Reports in Statutory Interpretation*, 2 BROOKLYN L. REV. 173 (1933); See Annot., 70 A.L.R. 5 (1931), for lists of federal cases using committee reports, committee hearings and floor debates in statutory interpretation; Comment, *A Re-evaluation of the Use of Legislative History in the Federal Courts*, 52 COLUM. L. REV. 125 (1952); Comment, *A Decade of Legislative History in the Supreme Court; 1950-1959*, 49 VA. L. REV. 1408 (1960).

35. Interview with William R. Nelson, Director of Research, Committee on Legislative Research, Missouri General Assembly, in Jefferson City, Missouri, Sept. 5, 1972. This situation is not unique—some 15 other states fail to keep any records. COUNCIL OF STATE GOVERNMENTS, BOOK OF THE STATES 70-72 (1970-71).

36. Interview with William R. Nelson, *supra* note 35.

37. Note, *supra* note 12, at 273.

38. See MISSOURI DEPARTMENT OF COMMUNITY AFFAIRS, MISSOURI STATE GOVERNMENTAL SERVICES CATALOG 336 (1970), for a list of available reports.

39. Note, *supra* note 12, at 273.

40. Interview with William R. Nelson, *supra* note 35.

41. Horack, *Cooperative Action for Improved Statutory Interpretation*, 3 VAND. L. REV. 382, 387 (1950).

42. 346 Mo. 1049, 144 S.W.2d 153 (En Banc 1940).

43. *Id.* at 1059, 144 S.W.2d at 156.

44. *Id.*, quoting *State ex rel. Buchanan County v. Fulks*, 296 Mo. 614, 626, 247 S.W. 129, 132 (1922).

At the federal level, the examination of legislative intent arose as a collateral issue in *United States v. Carolene Products*.<sup>45</sup> The Court gleaned the intent of the Congress from legislative records, relying on committee reports of the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.<sup>46</sup>

The Missouri court resolved the ambiguity of the statute strictly by intuition, with no knowledge of the setting of the statute within the legislative process.<sup>47</sup> Clearly, that approach affords little guarantee that legislative policy will be carried out.<sup>48</sup> To the contrary, the legislature probably did not intend to give effect only to the last part of the statute, and only to the particular parts as opposed to the general parts. Had this been the intent, the legislature would not have included the earlier, general parts.

Although judicial maxims of interpretation no doubt have merit,<sup>49</sup> the best indicators of the legislature's intent are the explanations given by the legislators themselves. That a court has weighed these explanations in the interpretative process makes it more likely that the statute as interpreted will carry out the policy of the legislature.<sup>50</sup>

The fact that only 9 percent of all cases before the Missouri courts in 1971 involved statutory interpretation<sup>51</sup> does not diminish the advantages of making legislative records available. Although the percentage may be low, these cases may be the most crucial in terms of policy.<sup>52</sup> In addition, this percentage does not reflect the practicing attorney's increasing need to be able to interpret statutes in order to fulfill his *advisory* responsibilities.<sup>53</sup> Finally, the percentage does not reflect the instances when the lower court's determination of legislative intent was not challenged at the appellate level.

#### IV. PROPOSED IMPROVEMENTS

In light of the foregoing analysis, it is submitted that the extent and scope of Missouri's legislative records should be expanded. Legislative recordkeeping and reporting that would aid the courts and attorneys in statutory interpretation include House and Senate floor debates, committee hearings, and substantive committee reports.

45. 304 U.S. 4 (1937).

46. *Id.* at 149.

47. See Comment, *Legislative Materials to Aid in Statutory Interpretation*, 50 HARV. L. REV. 822 (1937).

48. Horack, *supra* note 41, at 387.

49. But see Horack, *supra* note 41, at 387; Llewellyn, *Remarks on the Theory of Appellate Decision and the Rules or Canons About How Statutes Are to be Construed*, 3 VAND. L. REV. 395 (1950).

50. See De Sloovere, *supra* note 11, at 528, 532; Johnstone, *supra* note 16, at 17.

51. Sixty-five out of seven hundred and thirteen cases considered involved the interpretation of statutes.

52. Wasby, *Legislative Material as an Aid to Statutory Interpretation: a Caveat*, 12 J. PUB. L. 262, 263 (1963).

53. See Johnstone, *The Use of Extrinsic Aids to Statutory Construction in Oregon*, 29 ORE. L. REV. 1 (1949); MacDonald, *The Position of Statutory Construction in Present Day Law Practice*, 3 VAND. L. REV. 369 (1950).

### A. Floor Debates

A journal reporting floor debates verbatim would contain explanations of a bill's purpose by the chairman of the committee reporting it out as well as the debate, including any corrective amendments made.<sup>54</sup> Most states that have verbatim reporting of floor debates<sup>55</sup> either publish the transcripts of the debates in journals or store the information in computers. New Hampshire has adopted the most economical approach, providing for verbatim reporting of debate in only one house, the senate.<sup>56</sup> The cost of instituting a procedure of recording and reporting floor debates of both houses of the Missouri General Assembly in a printed journal would be approximately \$12,500.<sup>57</sup> The cost might be considerably less if the computerized journal method were used.<sup>58</sup>

There are certain limitations upon the usefulness of floor debates in the process of interpretation. Because only a few legislators may be on the floor listening to a speech for or against a bill, the record of debate may contain certain material that was not considered by many of the legislators who supported the bill.<sup>59</sup> Also, if the members of the legislature may amend their remarks before they appear in print, as is permitted at the federal level, what purports to be a verbatim account of the proceedings will not be completely accurate as to what the General Assembly really considered.<sup>60</sup> Furthermore, the supporters of a bill may omit much relevant material from the record in the hope that the bill will attract more votes if it remains unexplained.<sup>61</sup> In addition, items may be kept from the record in order to push the burden of interpretation on the courts so that the legislators will not receive blame for an unpopular position.<sup>62</sup> Another problem, which has arisen in the Congress, results from members of committees working into the record statements of a minority intention in hopes of thereby influencing the interpretation of the statute.<sup>63</sup>

However, these problems should be considered by the courts and attorneys only in deciding the *weight* to be given the debates. Even in view of these problems, the debates still furnish a vast amount of invaluable

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54. Chamberlain, *The Courts and Committee Reports*, 1 U. CHI. L. REV. 81, 82 (1933).

55. The following states keep verbatim records of all proceedings: Connecticut, Nebraska, Nevada, New York, Pennsylvania, Tennessee, Utah, Vermont, and West Virginia. Some states keep verbatim records of selected proceedings: Hawaii, Louisiana, Michigan, New Hampshire, and Washington. COUNCIL OF STATE GOVERNMENTS, *supra* note 35, at 70-72.

56. COUNCIL OF STATE GOVERNMENTS, *supra* note 35, at 71.

57. This cost estimate is based on figures quoted in a letter from David B. Ogle, Executive Director, Connecticut Joint Committee On Legislative Management, to the author, Aug. 30, 1972.

58. See Caldwell, *Legislative Record Keeping in a Computer Journal*, 5 HARV. J. LEGIS. 1 (1967).

59. Wasby, *supra* note 52, at 263-64.

60. *Id.* at 264.

61. *Id.* at 266.

62. *Id.* at 266-67.

63. Payne, *The Intention of the Legislature in the Interpretation of Statutes*, 9 CURRENT LEG. PROB. 96, 103 (1956).

information as to the conditions intended to be remedied by the statute.<sup>64</sup> Just as important, debates will often reveal problems the bill was *not* intended to remedy.<sup>65</sup> In addition, where a bill is passed unchanged after the committee chairman explains in debate the meaning of the bill, it is fair to assume that his reported comment reflects the true intent of the legislature.<sup>66</sup> Finally, reported debates, which are open to study and evaluation, will serve a non-legal function of keeping legislative discussion responsible and will discourage the use of false evidence to support a point of view.<sup>67</sup>

### B. Committee Hearings

Those states that keep records of their committee hearings<sup>68</sup> transcribe the debates and then either place copies on file in the state library<sup>69</sup> or store the information on computers.<sup>70</sup> In Missouri, this procedure would cost approximately \$25,000 per year.<sup>71</sup> The cost would be less if transcripts of the hearings of only the more active and important committees were kept.<sup>72</sup> In most states that keep these records, one not employed by the state must pay the costs of having these records furnished to him.<sup>73</sup>

Records of committee hearings are of limited value in statutory interpretation. The statements by proponents and opponents of a bill do not necessarily reflect the *legislative* intent, and they will usually support a variety of results in a given case.<sup>74</sup> However, the hearings provide the benefit of showing the circumstances under which the statute was passed.<sup>75</sup>

### C. Committee Reports

One of the simplest and least expensive methods of providing adequate committee reports for use in interpretation is used in Hawaii, the only state that requires substantive reports from its committees. An Hawaiian committee report contains statements of the number and full

64. Horack, *The Disintegration of Statutory Construction*, 24 IND. L.J. 335, 341 (1949).

65. Chamberlain, *supra* note 54, at 82.

66. MacDonald, *supra* note 53, at 375-76.

67. W. KEEFE & M. OGUL, *THE AMERICAN LEGISLATIVE PROCESS: CONGRESS AND THE STATES* 272 (2d ed. 1968).

68. The following states keep verbatim records of all committee hearings: Connecticut, Michigan, Nebraska, New Hampshire, Ohio, Texas, West Virginia, and Wisconsin. Some states keep verbatim records of selected proceedings: Alaska, Arizona, Hawaii, Idaho, Indiana, Minnesota, Nevada, New Jersey, Oregon, South Carolina, and South Dakota. COUNCIL OF STATE GOVERNMENTS, *supra* note 35, at 70-72.

69. Letter from David B. Ogle to the author, *supra* note 57; letter from Robert E. Johnson, Executive Director, Texas Legislative Council, to the author, Aug. 28, 1972; letter from Vincent D. Brown, Clerk of the Legislature, State of Nebraska, to the author, Aug. 25, 1972.

70. See Caldwell, *supra* note 58.

71. This cost estimate is based on information in a letter from David B. Ogle to the author, *supra* note 57. The cost in Missouri might be considerably less, because Connecticut has a larger number of public hearings than most states.

72. Interview with William R. Nelson, *supra* note 35.

73. Letter from David B. Ogle to the author, *supra* note 57.

74. Comment, *A Re-evaluation of the Use of Legislative History in the Federal Courts*, 52 COLUM. L. REV. 125 (1952).

75. Chamberlain, *supra* note 54, at 87.



title of the measure, the findings of the committee, the purpose of the measure, any amendments prepared by the committee, and the committee's recommendation and the reasons therefor.<sup>76</sup> The report is the primary subject of the second and third readings of the bill before the house, and the motion before the house is for adoption of the report, "thereby passing the bill."<sup>77</sup> The report, usually only three or four pages long,<sup>78</sup> is reproduced at the time the amended bill is reprinted and is included in the weekly bill status report.<sup>79</sup>

A more expensive method is employed in Congress. Customarily, the Senate or House committee submitting a bill for consideration also submits a committee report, which explains the reason for the statute and the intended nature and effect of the bill.<sup>80</sup> Most of the reports are lengthy, detailing the facts and opinions brought out in the committee's research and arguments that will be used on the floor.<sup>81</sup> As a result, the Congressional reports are substantially more expensive to prepare and print than the typical state report.

The committee report can be attacked as not necessarily reflecting the majority view of the legislators who pass the bill, because only a handful of legislators compose the report.<sup>82</sup> It is probably the best indicator of the intent behind the legislation,<sup>83</sup> however, because the committee normally functions as the legislative body's agent and usually has the best understanding of the bills it examines.<sup>84</sup> Regardless of the model used, the process of printing every report of every committee of the Missouri General Assembly would be expensive and wasteful, because the courts never interpret most laws emanating from the less important committees.<sup>85</sup> Therefore, substantive committee reports should be limited to the more active and important committees.<sup>86</sup>

#### D. General Considerations

The greatest problem with any system of legislative recordkeeping is how to minimize expense while maximizing distribution. The costs incurred by the state can be offset by the income from sales of the records. However, it is necessary to keep the cost of purchasing the records at a

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76. HAWAII LEGISLATIVE REFERENCE BUREAU, HAWAII BILL DRAFTING MANUAL 17 (1971). See also 2 COUNCIL OF STATE GOVERNMENTS, LAWMAKING IN THE WEST: A SUMMARY OF LEGISLATIVE BILL PASSING PROCEDURES IN THIRTEEN STATES 43 (1967); 1 STATE OF HAWAII LEGISLATIVE REFERENCE BUREAU, HAWAII CONSTITUTIONAL CONVENTION STUDIES: THE LEGISLATURE 52 (1968).

77. 2 COUNCIL OF STATE GOVERNMENTS, *supra* note 76, at 43.

78. Letter from Seichi Hirai, Clerk of the Senate, Sixth Legislative Session, State of Hawaii, to the author, Aug. 29, 1972. Information as to the cost of preparing and printing these reports was unavailable.

79. 2 COUNCIL OF STATE GOVERNMENTS, *supra* note 76, at 43.

80. Chamberlain, *supra* note 54, at 82.

81. W. KEEFE & M. OGUL, *supra* note 67, at 233.

82. However, the federal courts assume that the House has ratified the work of its committees. Wasby, *supra* note 52, at 270.

83. Richardson, *Judicial Law Making: Intent of Legislature v. Literal Interpretation*, 39 KY. L. REV. 79, 84 (1950).

84. See Wasby, *supra* note 52, at 270.

85. Interview with William R. Nelson, *supra* note 35.

86. *Id.*

minimum in order to make them economically available to all practicing attorneys throughout the state. A valid criticism of the legislative materials produced at the Congressional level is that the materials pertinent to a given statute are so voluminous that it is difficult to research the statute thoroughly and so costly that only the attorneys in the capital and the most prosperous firms in the large cities can afford them.<sup>87</sup>

A system designed to overcome both the compilation and cost problems was initiated in New York under the auspices of the *Legislative Annual*.<sup>88</sup> A compilation of all pertinent records on the statutes passed by the New York legislature appears in one compact annual volume.<sup>89</sup> A non-profit membership organization purchases the materials from the state, prepares them for distribution, and issues them at a cost of \$18.00 per annual.<sup>90</sup> This approach could be implemented in Missouri through a similar private organization, through the Missouri Bar Association, or through an expansion of the services of the Legislative Research Committee, which is already functioning within the bureaucratic framework of the General Assembly.

Any of the foregoing systems of recording and reporting could be implemented without additional legislation. The state constitution already provides that each committee must keep records of its proceedings if required by the rules of the respective houses.<sup>91</sup> Further, the constitution requires that each house publish a journal of its proceedings.<sup>92</sup> The statutes already provide for the binding and printing of the journals<sup>93</sup> and for their sale at cost.<sup>94</sup> To implement the needed recordkeeping, the houses need only alter their procedural rules to require the keeping of these records.

#### V. CONCLUSION

Merely expanding the scope and availability of legislative records will not solve all of the problems of interpretation of Missouri statutes. Many problems will persist, and the more active use of legislative records

87. Jackson, *The Meaning of Statutes: What Congress Says or What the Court Says*, 34 A.B.A.J. 535, 538 (1948).

88. E. POLLACK, *FUNDAMENTALS OF LEGAL RESEARCH* 342 (3d ed. 1967); Nutting, *The New York State Legislative Annuals*, 26 STATE GOV'T 291 (1953).

89. Nutting, *supra* note 88, at 291; Letter from Earnest H. Breuer, State Law Librarian, New York State Library, to the author, Sept. 16, 1972.

90. This information was furnished by the New York Legislative Service, Inc. Also available is a system of immediate reporting on the progress of bills introduced in the New York legislature. At an annual cost of \$200, this service provides information on the source of and support for a bill as well as comment by which legislative intent may be gauged.

91. Mo. CONST. art. III, § 22, provides: "Each committee shall keep such record of its proceedings as is required by rule of the respective houses and this record and the recorded vote of the members of the committee shall be filed with all reports on bills."

92. Mo. CONST. art. III, § 26 provides: "Each house shall publish a journal of its proceedings."

93. § 2.080, RSMo 1969 provides: "One thousand copies of the journals of the proceedings of each house shall be printed, under the superintendence of the secretary of state, in book form, to be distributed according to law."

94. See § 2.060, RSMo. 1969.

will create new problems. The advantages will clearly outweigh the disadvantages, however. The additional expense of making these aids available to practicing attorneys is as justifiable as the expense of printing the statutes themselves, because under present legal theory, legislative aids should be as much a part of the interpretation of a statute as the language of the statute itself.<sup>95</sup> Of course, the legislative records must also be interpreted. Thus, all of the guesswork as to what was intended by the legislature will not be eliminated.<sup>96</sup> Nevertheless, their existence would enable the courts to make honest attempts to interpret the statutes so as to accurately reflect the true intent of the legislature enacting the statute.<sup>97</sup>

DONALD E. WOODY

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95. Meyer, *Legislative History and Maryland Statutory Construction*, 6 MD. L. REV. 311, 316 (1942).

96. Landis, *A Note on "Statutory Interpretation,"* 43 HARV. L. REV. 886, 893 (1930).

97. *Id.*