

Compiling a Federal Legislative History

from Older Records

Professional Perspectives — Tools and Techniques of the Trade. The Professional Development Committee encourages members to continue to explore topics after presentations at the local, regional and national levels. We welcome your comments and article suggestions. Please contact Lori Hedstrom at 651/687-5891 or lori.hedstrom@westgroup.com.

In recent years there has been a tremendous growth of documents made available electronically with all the attendant speed and searchability that electronic research implies. This has been no less true for federal legislative documents, especially with the advent of the Internet and documents available on GPO Access, THOMAS, and the U.S. House and Senate Web pages. Thus, many patrons of law libraries now expect that most of their legal research needs can be fulfilled electronically. However, when it comes to conducting federal legislative research retrospectively more than a couple of decades, they are generally mistaken.

For example, the daily *Congressional Record* is available electronically only back to 1985 (via LexisNexis™ and WESTLAW). Texts of congressional bills are available electronically only starting with 1989 (via THOMAS and LexisNexis). And a comprehensive collection of congressional committee reports is available only from 1990 (via CQ On Congress, LexisNexis and WESTLAW) to the present. What does a librarian do when asked to assemble a legislative history of a U.S. public law that was enacted more than a few decades ago and that no library in the area seems to own? Fortunately, compiling federal legislative histories did not begin with the Internet, and there are many sources for assembling a history.

In compiling legislative histories for older U.S. public laws, first find the public law number (or statute citation) and then the bill number that was signed into law. If the popular name of an act is known, its public law number can generally be found in the "Popular Names Tables" of *United States Code* or the commercially produced *United States Code Annotated* and *United States Code Service*. The table or the index to the *Code* will also cite to *U.S. Code* sections. These sections are assigned to each part of a law that is general and continuing, according to its subject matter, by the Office of the Law Revision Counsel of the U.S. House of Representatives. The

reference notes following each section in the *Code* will not only indicate which public laws amended or established a section but will also identify, in further notes, how specific laws amended a section.

Be careful in using notes within *U.S.C.* titles that have been revised, codified and enacted into positive law because any historical references in them will only go back as far as the act which established the new codification. However, these codifications (sometimes called recodifications) of the *U.S.C.* titles are not intended to change the law. The Office of the Law Revision Counsel in the U.S. House of Representatives, which produces revisions to the *Code*, will generally only reorganize and perhaps rephrase the law to make it more coherent and consistent. To find the true statutory origin to a certain section of the *Code* whose title has been officially codified, and the appropriate law to research for legislative history purposes, one must find out what older *Code* section(s) it was derived from. To do this, check out the notes in the newer sections. Then refer to an older copy of the *U.S. Code* with sections that are dated prior to the title's official codification. The Law Revision Counsel does not reuse section numbers that it, not Congress, has revised.

By far the most commonly available federal legislative history collection is the *United States Code Congressional and Administrative News*. *USCCAN* has been published annually by West since 1941. It can be found in most U.S. law library collections. *USCCAN* has a somewhat misleading title; it neither reproduces the *U.S. Code* nor contains congressional and administrative news articles. However, it does reproduce the text of all U.S. public laws and provides some of the important legislative history material to most of those laws. These include explanatory statements to nonappropriations-related conference reports, the text of selected related committee reports, although no more than one, and all presidential signing statements, executive orders and

presidential proclamations. The service also contains references to companion committee reports and dates of consideration on the House and Senate floors, as well as indices to subjects covered, to *U.S. Code* sections affected that year, and to popular names of public laws. In earlier volumes, some excerpts from the *Congressional Record* debate are also included. From 1948 forward, committee reports and presidential signing statements have been placed electronically in WESTLAW's LH file.

If a public law number — officially used since 1957 but applied uniquely to U.S. public laws since 1908 — is available, there are a variety of indices for finding the bill number and chronologies to actions taken on bills. These include the biennial *CCH Congressional Index*, a looseleaf service published since 1941 with a chronological history on each bill, including the beginning date of hearings on the bill. The final House Calendar published for each Congress since the 1920s, officially called *Calendars of the United States House of Representatives and History of Legislation: Final Edition*, depicts the chronology on each bill having some action. The *Digest of Public General Bills and Resolutions*, produced from 1955 to 1989 by the Library of Congress Congressional Research Service, contains summary digests and chronologies on each bill and resolution introduced from the 84th Congress to the 101st Congress. The Library of Congress Internet service, THOMAS, continues these CRS summary digests for each bill and resolution to the present.

An important and easy source for legislative history references is in the notes of the *United States Statutes at Large*. Since 1975, the *Statutes at Large* provides brief legislative history references on the final page of each U.S. public law, including bill numbers, committee report numbers and dates of floor consideration. The bill number or joint resolution that was enacted into law is in the margin at the beginning of each law included in the *Statutes at Large* since 1904. Information on

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corresponding bill numbers for U.S. laws prior to 1904 (the 58th Congress) are laid out in Eugene Nabors' *Legislative Reference Checklist: the Key to Legislative Histories from 1789 to 1903*, published by Fred B. Rothman & Co. in 1982 but no longer in print.

Considered an essential tool for finding related legislative history documents to U.S. public laws before 1970, the bound "Congressional Record Index" with its accompanying "History of Bills and Resolutions" contains the index and history of House and Senate bills produced for each congressional session since the *Congressional Record* began in 1873. It is generally placed in the last or second to last part in the bound volume series of the *Congressional Record* that is published for each congressional session. Usually each congressional session covers one year, but before 1941, a biannual Congress frequently had more than two sessions, and sessions did not normally begin in January.

The "Congressional Record Index" and the "History of Bills and Resolutions" are available on GPO Access from 1983 (98th Congress) forward, but this is for the *daily edition only*, which has a completely different pagination from the bound edition. Since 1967, the daily editions of the *Congressional Record* have placed a letter in front of the page number signifying different sections — "S" for Senate section, "H" for House section, "E" for Extension of Remarks section, and "D" for Daily Digest section. The bound edition is in straight numeric form and integrates House and Senate pages together on a daily basis. Before 1967, the daily edition was also in straight numeric form, but the numbers do not coincide with the numbers in the bound edition. Also before 1967, the extension of remarks section, usually only inserted by members of the House, was published as an appendix to the *Record*. The daily edition of the *Congressional Record* is available electronically in full text on both LexisNexis and WESTLAW from 1985 forward, but there is no electronic form of the bound edition of the *Congressional Record*, which becomes the official citation reference when it comes out in print, usually a few years after the daily edition.

The "History of Bills and Resolutions" at the end of each index contains the page

numbers, but before 1993 not the dates, in the *Congressional Record* volume where a specific bill was noted as being introduced, reported from committee (with the report number) and considered on the House or Senate floors. It also presents the conference report number and the page numbers in the *Record* showing where it was considered, as well as page numbers indicating when House and Senate officials signed the enrolled bill just before sending it to the president. Finally, the page numbers that specify when a bill was signed into law and the public law number. Frequently the page numbers noting House or Senate floor consideration present only the beginning page number but consideration could have continued for multiple pages. The "History of Bills and Resolutions" does not note committee hearings or companion measures in the other chamber or similar measures introduced in the same chamber. However, the "Congressional Record Index" of subjects and names provides assistance in finding related measures and remarks not noted in the "History of Bills and Resolutions."

The "Congressional Record Daily Digest" volume part placed at the end of each *Congressional Record* volume after 1947 summarizes daily floor action and committee actions and hearings for that day. The text of committee hearings and committee reports are not normally placed in the *Congressional Record*, with the exception of conference reports and occasional excerpts of congressional testimony. The text of committee hearings and committee prints are published as separate paper-bound copies — tan outside binding for large House hearings and green for Senate. Although committees may number their hearings and prints in a series, they are normally published in single paper-bound copies. Some hearings may be only 20 or 30 pages in length while others that were held over many days may be issued in a number of volumes or parts.

Unlike congressional hearings, all committee reports and most other congressional numbered documents are placed in the voluminous *United States Congressional Serial Set*, which has been published since 1817 and now has more

than 14,000 volumes. As committee reports and other documents are considered critical to most legislative histories, the *U.S. Serial Set* is of immeasurable value in legislative research. Armed with a committee report number, the researcher can use that number in an index to find out which volume of the *U.S. Serial Set* contains a specific report or document. Indices to the *U.S. Serial Set* include the *CIS U.S. Serial Set Index* for 1789–1969, which now also has a very useful bill number index arranged by Congress. The *Numerical Lists and Schedule of Volumes of the United States Congressional Serial Set* is published by the Government Printing Office as part of its *Monthly Catalog of United States Government Publications* and republished in three volumes from 1933–1980 by William S. Hein & Co. A *U.S. Serial Set* supplement, published by the GPO for the 97th Congress (1981–1982), is titled "Numerical Lists of the Documents and Reports." Beginning with the 98th Congress in 1983–1984, the GPO has produced *United States Congressional Serial Set Catalog*, a catalog volume of all documents and reports issued for each Congress. At the start of each volume is a "Numerical List of Documents and Reports" and a "Schedule of Serial Set Volumes." Lastly, the GPO publishes preliminary and final schedules of *Serial Set* volumes for each congressional session in its newsletter to federal depository libraries, titled *Administrative Notes Technical Supplement*.

Sometimes the text of bills as introduced is reprinted in related hearing documents. It is usually necessary to go to a microform set to obtain the text of old congressional bills and resolutions. The Law Library of Congress has two sets of congressional bills on microform and also maintains a bound hardcopy set of most congressional bills starting from the 6th Congress. Various libraries around the country have also acquired these microform sets; a search on the Online Computer Library Center with the phrase "bills and resolutions" should reveal most of those libraries. The CIS collection of bills, resolutions and laws on microfiche from 1933 to the present — from 73rd Congress on — is also available for

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purchase as a set or from its Documents On Demand service. Finally, between the 96th Congress and the 106th Congress, or from 1979 to 2000, the GPO has published all House and Senate bills on microfiche with a final cumulative finding aid for each congressional session. Many depository libraries around the country have this series in their depository collections.

Bill files on thousands of past measures are maintained at the Center for Legislative Archives of the National Archives and Records Administration. Pursuant to congressional instructions, most Senate archives are available to researchers after 20 years have passed and most House archives are available after 30 years. The documents generally come from congressional committees, but the quality and quantity of material sent to the National Archives may differ significantly according to the policies and practices of a chamber and those of the committee at the time they are sent. The papers of individual members of Congress are not sent to the National Archives but may be stored in local libraries or other establishments. At the Center, those researching the legislative history of a public law may find the text of related bills as well as correspondence to a House or Senate committee concerning it. The Center also is likely to have committee hearings and other documents related to the legislation.

Before the government began publishing the *Congressional Record* in 1873, there were various private publishers of congressional proceedings and debates. The most noteworthy of these are the *Annals of Congress* covering 1789 to 1824 and published retrospectively by Gales and Seaton, the *Register of Debates* covering 1824 to 1837 and published each session by Gales and Seaton, and the *Congressional Globe* covering 1833 to 1873 and published weekly by Blair and Rives. The debates in these publications were often news summaries or selected speeches, sometimes called sketches, rather than verbatim remarks. The volumes, normally organized by congressional session, each had an index attached to them. The Library of Congress has digitized these early records in its American Memory Project's *A Century of Lawmaking for a New Nation*. The site also contains editions of the *U.S. Statutes at Large* published prior to 1874, congressional bills and resolutions, House

and Senate journals, and other material. Although readable, these historical documents are not full-text searchable, but they do have various indices as "navigators" to the system. See <http://memory.loc.gov/ammem/amlaw/lawhome.html>.

Article I, section 5 of the *Constitution of the United States* requires that congressional proceedings be published in a *House Journal* and a *Senate Journal*, but these journals, published continuously since 1789, do not reproduce any congressional debate. The journals merely publish the daily minutes of specific procedures, such as what measures were introduced and passed, which appointees were confirmed, communications received, and votes taken. However, the index to each journal volume and tabular index explain what actions were taken on bills and resolutions and what page number of the journal that action is related. Since predecessor publications to the *Congressional Record* did not, until 1867, have any history of bills and resolutions, these journals can be an aid in early legislative history research. For the most part, the contents of the journals are covered in the *Congressional Record*. Until 1953, House and Senate journals were published as part of the *U.S. Congressional Serial Set*. Indices to the *House Journal* are available on GPO Access from 1991 to the last Congress in session.

For researching early congressional documents, there is no substitute for the comprehensive legislative indices produced by the Congressional Information Service, Inc. CIS reproduces the actual text of the documents referred to in its indices on microfiche. For example, there is the *CIS U.S. Serial Index* and the *CIS Serial Set on Microfiche* 1789–1969. The new Part 13 to the *Serial Set* index is organized by bill number in each Congress and shows related report numbers, many of which, such as those from 1817 to 1845, were never included originally on the report. There are also the *CIS Congressional Hearings Index* and Microfiche 1833–1969, the *CIS Unpublished Senate Committee Index* and microfiche 1823–1972, the *CIS Unpublished House Committee Hearings Index* and microfiche 1833–1958, the *CIS Congressional Committee Prints Index* and microfiche 1830–1969, and the *CIS Senate Executive Documents and Reports Index* and microfiche 1817–1969. All these indices, but not

the text of the items, are available electronically on the CIS Congressional Master File I on CD-ROM, the CIS Congressional Universe service, the LexisNexis service (LEGIS library; CISHST file), and LexisNexis.com (Legislative Histories and Material — CIS/Historical Index). Using these services with key phrases and date parameters may produce a wealth of legislative history material on any particular law. For libraries that do not have the complete CIS full text microfiche collection, the CIS Document on Demand service will supply the full text of specific microfiche or paper copies referenced in CIS indices for a fee.

Of course, probably the best-known CIS product is its annual and monthly *CIS Index/Abstracts* of congressional, hearings, reports, documents and prints. Accompanying the annual CIS volumes since 1984 is a legislative history volume that contains references and abstracts to most of the documents related to each U.S. public law. From 1970 to 1983, brief legislative references to each U.S. public law were placed in the back of the annual *CIS Abstract* volume. CIS legislative histories, available on LexisNexis and CIS Congressional Universe, have become a standard tool for compiling recent federal legislative histories.

Many older legislative documents, including bills, reports, hearings and the *Congressional Record*, can be located in the libraries of law firms, federal agencies, U.S. courts, universities and local governments around the country. Libraries and AALL Chapters in the United States have developed guides and union lists for these documents. For example, librarians who are searching for information on such documents in libraries in the Washington, D.C., area can use *Union List of Legislative Documents*, published by the Law Librarians' Society of Washington, D.C., Inc. Additionally, that society's Web site, Legislative Source Book at <http://www.llsd.org/sourcebook>, contains the union list as well as numerous other practical resources. The site also contains a more extensive practitioner's guide on compiling federal legislative histories, of which this article is but a revised excerpt.

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