

LLSDC's LEGISLATIVE SOURCE BOOK

QUESTIONS AND ANSWERS IN LEGISLATIVE AND REGULATORY RESEARCH

The following material was taken and edited from an article appearing in the March/April 1998 issue of the Law Librarians' Society of Washington D.C. newsletter, *Law Library Lights* (v. 41, no. 4), entitled "Legislative Inquiries and Conundrums". The authors were members of the Legislative Research Special Interest Section and included **Catherine Rogalin** with Cleary, Gottlieb, Steen & Hamilton; **Rick McKinney** with the Federal Reserve Board; **Debbie Atkins** with Arent, Fox, Kintner, Plotkin & Kahn; **Carol Waesche** with Steptoe & Johnson; **Ellen Sweet**, now with the National Education Library; **Charlotte White** with Covington & Burling; **Judy Manion** with Jones, Day, Reavis & Pogue; and **Julia Taylor**, now with Dickstein, Shapiro, Morin & Oshinsky.

This reedited version was prepared by Rick McKinney and Ellen Sweet.

The following 27 questions and answers are organized into six general subject categories; see below. More questions and answers may be added in future years. If you have suggestions for future questions (or suggested corrections to these answers) please submit them to Rick McKinney, Assistant Law Librarian, Federal Reserve Board, Washington, D.C. 20551; 202-452-3283; rick.mckinney@frb.gov.

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I. Questions on Bills and Resolutions:

Q: In the news I have heard the term "Congressional bill" and the term "Congressional resolution". What is the difference?

A: There are four types of legislation used by Congress for different purposes:

Bill: This is the vehicle which Congress uses for most legislation and is identified by either H.R. or S. (which designates the originating chamber) and a number given sequentially upon the bill's introduction. New numerical sequences are applied to bills at the start of each two year Congress; the same for resolutions.

Joint Resolution: Once, this was used for general legislation, but now it is used for constitutional amendments or special legislative purposes (such as continuing appropriations). It is identified by S.J.Res. or H.J.Res. and a number.

Concurrent Resolution: This is used for expressing fact, principles, opinions or purposes of both the House and Senate (such as a budget or adjournment resolution) in which both chambers have a common interest. It is identified by H.Con.Res. or S.Con.Res. and a number.

Resolution: This is sometimes referred to as a simple resolution. It is used to regulate the administrative or internal business in either the House or the Senate or to express facts or opinions on non-legislative matters. It is identified by H.Res. or S.Res. and a number.

To become law, bills and those joint resolutions which are not proposed constitutional amendments, must be passed by both the House and the Senate and presented to the President for signature. The joint resolution that is a constitutional amendment, upon passage by two-thirds vote by both House and Senate, and approval by three-quarters of state legislatures, becomes an amendment to the *U.S.*

Constitution and is presented to the Archivist of the United States.

Concurrent resolutions and simple resolutions are not signed by the President nor do they have the force of law.

Q: A patron has a copy of a bill discussed in a newspaper article, but says the bill does not contain the language that the paper describes. How can that be?

A: Newspapers generally report on new information, not on something that's been around for a while. The patron may have an earlier version of a bill than one that is being described. At this point, you need to determine the status of the bill. It is possible that a bill has just passed in the House or Senate. It is also possible that a Committee has recently met and marked up the bill (meaning the Committee has met and considered amendments to the bill) and ordered it reported to the floor. If that is the case, then the amendments will be incorporated into the reported bill. Unfortunately, just because the Committee has ordered the bill reported doesn't mean that the new version of the bill will be available tomorrow. Committee staff usually prepare reports on reported bills which summarize the bill and discuss the history and need for its enactment, and this can take some time. Bills made available online or those retrieved from the House or Senate documents rooms may not yet contain the marked up text as reported.

The House and Senate Documents Rooms only keep the most current printed version of the bill; once they receive the reported bill, they discard the introduced version. Don't forget, you can always call the House Legis Office (202/225-1772) for a status check. In addition, the fee-based online services have bill status information, as does Thomas (<http://thomas.loc.gov>).

Q: I have read that a bill was amended in committee, but I can't seem to easily locate the amendments online or from the House and Senate documents rooms. How can I get a copy of those amendments?

A: This question is related to the previous question. The House and Senate Document Rooms carry the printed text of bills as introduced, reported, and passed, but not amendments. Thus, a messenger to the Hill or an online search will not uncover the text of the amendments. Try contacting the Committee to see if they are providing copies. Also, check the Committee's web site; often the amendments will be posted there (especially the House Commerce Committee). Additionally, the text of the amendments are sometimes reprinted in specialized topical publications, such as those published by BNA and Tax Notes. The search may require you to call a document delivery service to obtain copies. Finally, there is always the chance that another colleague, who may be following the bill, has obtained copies of the committee amendments to the bill by having staff present at the committee markup when the amendments were considered and copies were distributed.

Q: I understand that sometimes a congressional bill is referred to as an "Act" even before it gets to the President. Is that possible?

A: That is the accurate way to refer to legislation that has passed either the House or the Senate. It allows Congress to differentiate between bills that are still within the originating chamber and those that have moved out of the originating chamber. When bills are printed after being passed by one chamber (the engrossed version) and are sent to the other chamber (as referred) they will have the words "An Act" printed on them instead of the words "A Bill". Unfortunately this differentiation actually obscures the difference between legislation that has passed one chamber and legislation that has been enacted. A bill that has cleared both

chambers in the same form is sent to the President in an "enrolled text".

By the way, bills referred to the other chamber are generally printed and made available to the public, but the duplicate engrossed version as passed by one chamber is not printed; neither are enrolled versions cleared by both chambers and sent to the President. However, these versions are both made available electronically (GPO Access, Thomas, others).

Q: Where can I look for the text of bills introduced in Congress many decades ago, but not enacted?

A: The Law Library of Congress maintains hard copy and microfiche copies of most all Congressional bills ever introduced and some law school libraries (like Harvard) have obtained this microfiche collection. However, many university law libraries hold the entire Congressional Information Service (CIS) microfiche collection of House and Senate bills which dates from the 73rd Congress (1933). Through its "Documents on Demand" service CIS will sell microfiche or hard copy blowbacks of specific bills or Congresses from its collection.

Beginning in 1979 (96th Congress) the U.S. Government Printing Office has made microfiche copies of all bills and resolutions available to government depository libraries.

Another source for old bills is the *Congressional Record*, especially for copies of Senate bills, which since the 1960s are frequently printed upon introduction. Occasionally the *Record* (usually in its Extension of Remarks section) reproduces the text of newly introduced House bills. The *Index to the Congressional Record* (Bound Edition) will note when the text of a bill appears in the *Record*. Bills that pass one chamber, but not the other, are normally printed in the *Record*, and the text of conference reports are also printed there as well. If the bill is reported out of committee in the House, the text of the reported bill can normally be found in the accompanying committee report (which are rarely if ever published in the *Record*). Senate

reports normally do not contain the text of a reported bill that is published separately.

A third possibility is in a Congressional hearing. Frequently bills, as introduced, will be printed in the hearing addressing that bill or the bill's subject matter. It is best to check the *CIS Index* to see if hearings were held on the legislation. You can also determine hearings by using old committee calendars and the *CCH Congressional Index*, which references hearings in its Status Table section.

Online versions of bill texts only go back to the late 1980's.

The Law Librarians' Society's *Union List of Legislative Documents* has information on libraries who have microfiche bill collections and also on libraries who have retained selected bills in hard copy.

II. Questions on U.S. Laws and Code:

Q: A patron says he has read a newspaper article that talks about a law that was just passed on the Hill and he wants to see a copy of that law. What should I do? How do I get a copy of a new law?

A: First, check the article and make sure it does, indeed, say that the bill has passed both chambers and is cleared for the President. Oftentimes, the news report is on the action of one of the chambers. Remember that before a bill is signed into law, it needs to have cleared both chambers in identical format. A bill that has passed one chamber will normally be printed in the *Congressional Record* and an "engrossed" version (version passed one chamber) of the bill will become available online and a printed copy referred to the other chamber.

If the article does say the bill is headed to the President, you need to determine whether the bill has actually been received at the White House. A phone call to the White House Executive Clerk (202/456-2226) will provide you with the information. There is no requirement for Congress to immediately present the bill (as enrolled) for signature; sometimes it takes a month or more for a bill to travel down to 1600

Pennsylvania Avenue. The President has ten days (excluding Sundays and Holidays) from receiving the bill to sign or veto it.

After the President signs the bill into law, the bill is sent to the Office of the Federal Register for public law and *Statutes at Large* numbering. The House Law Revision Counsel usually will have already assigned sections of the enrolled bill to sections of the U.S. Code unless the legislation is particularly long or if many laws are enacted around the same time (like the end of a session).

It may take several weeks, if not months, before a law is formally published as a "slip law" (pamphlet) with statute pages at the top and U.S. Code cites in the margins. The information, however, is usually online long before that time. The enrolled version of the enacted legislation (PDF version on GPO ACCESS) will have the same page format as the slip law. So after the Office of the Federal Register has assigned a volume and statute number to the first page one can easily figure out what the proper statute pages are to the rest of the law by adding the cite (minus one) to the other pages in the enrolled version of the bill.

To figure out the U.S. Code cite, the Law Revision Counsel in the House of Representatives will have published a table of assigned sections to new laws. See <http://uscode.house.gov/usctt.htm>. Also the Statutes Division of the Office of the Federal Register has a copy of the enrolled bill as sent to the President on file for photocopying.

GPO ACCESS, THOMAS and other online services will have copies of the legislation available for downloading. You need to choose the "enrolled" version of the bill since this contains the final language presented to the President. For some acts, especially large omnibus appropriations acts that need to be quickly enacted, an enrolled copy may not be prepared for the President's signature and one may have to rely on the agreed text language in the conference report. Conference reports are

always published in the *Congressional Record* the day they are filed.

Once the slip law is printed, you can obtain hard copies of the law in several places. Both the House and Senate Documents Rooms carry slip laws when they are printed and they are distributed to government depository libraries as well. Also, advance sheets to the *United States Code and Congressional and Administrative News* (USCCAN), the *United States Code Annotated* (USCA), and the *United States Code Service* (USCS) carry the text of laws although these can take longer to be printed and available. BNA's *United States Law Week* reprints major legislation, and its *Daily Report for Executives* also carries text of major bills. Topical newsletters may also be sources that reproduce the text of selected laws in their subject field.

Q: I only have been provided the popular name to an Act, how can I find the text?

A: A popular name index to U.S. public laws can be found among the volumes of the *United States Code*, the *United Code Annotated*, and the *United States Code Service*. These indices will identify the proper statute, its amendments, and cites to the sections of the Code. Another index is *Shepard's Acts and Cases by Popular Names: Federal and State*. If the popular name index does not seem to contain your act you might try variations of the name or conducting a database search among law reviews and news stories.

Q: The popular name I have been provided is not really to a law, rather it's called the "Byrd Amendment". How do I find it?

A: There is no reference source translating popular named amendments to the code location. Generally, the best source for tracking down this type of information is to run several online searches of law review articles, news articles, and the *Congressional Record*, for if the provision obtained a popular name as an amendment, it was probably discussed with that name by members of Congress or members of

the press. It is important to ask your patron if he or she has any clue about what the subject matter of the amendment concerns. For example, there are several popularly named Byrd Amendments: one on government procurement, another on extraneous budget items, and another still on government ethics.

Q: Do U.S. laws become effective when the President signs them and is that the same as the date of enactment?

A: The date of enactment is the same as the date on which the President signs the bill into law. The effective date may be the date of the signature or it may be stipulated within the law, such as 60 days after enactment, or by designating a specific date of enforcement. The date of a law's effectiveness sometimes has its own section number (usually at the end) and different titles or sections of a public law may specify different dates of effectiveness.

Q: Is it correct to say that Congress passed a law or do you have to add the President's action?

A: The popular expression of "Congress passed a law" is true in that Congress passes legislation that becomes law upon President's signature, with the exceptions of a Congressional override of a Presidential veto or when the President allows a bill to become law without his signature. So technically, only under the two exceptions could you say definitively that Congress passed a particular law, but even then you would want to include the reference to the veto override or that it was allowed to become law. However, it is quite common to say that Congress passed a law or that Congress enacted a law. While technically this is not quite true, there really is no short worded way to express the concept. After all, Congress is the legislative body that makes the laws and as author of these laws, it is Congress that normally receives the credit or blame for their enactment.

Q. I have a citation to a section in a U.S. public law. How do I find where it is located in the United States Code?

A. Sections to each public law are cross indexed to the Code in table volumes to the *United States Code*, the *United States Code Service*, and the *United States Code Annotated*. The Law Revision Counsel in the House of Representatives prepares tables for recent public laws (both from section to code section and from code section to law section) and makes it available from 1997 forward on its web site (<http://uscode.house.gov/usctt.htm>). Also, each public law (in statute volume or slip form) has the applicable U.S. Code cite to each section of the law printed in the side margin.

Q: Over the years a law that a patron is interested in was amended many times. Where can I find the text of a current law with all of its current amendments properly inserted in its given sections as a public law, rather than its assigned sections in the United States Code?

A: There really is no officially published compilation of current U.S. statutes except those titles published as part of the *U.S. Code* or those published laws that have never been amended. Sometimes, a federal agency or a congressional committee which has jurisdiction over a law will publish an updated version of a particular law or compilation of laws, but these are still unofficial. Commercial publishers, such as loose-leaf services, might also publish unofficial, updated versions of laws. The Legislative Counsel's Office in the House and the Senate assist Congressional committees in their compilations and they assist members of Congress in writing bills so that laws are amended to the proper section, paragraph, sentence and word, but Congress may not always get it right and technical amendments may need to be enacted.

Q: Why are early laws cited by their chapter number and not their public law number?

A: Traditionally a statute encompassed all the laws and resolutions in a single Congressional session, and a chapter was considered as one law or resolution in that statute. Some states, even today, have a similar system. Although the *U.S. Statutes At Large* would divide public from private acts in its publication volumes, chapter numbers were actually assigned in chronological sequence to all public and private laws and resolutions in a statute during one Congressional session. What may look like skipped chapter numbers in the public law section is probably located in the private law section.

It becomes more complicated because a single Congress in the nineteenth and early twentieth centuries might have two to four sessions. Thus the same chapter number might be assigned to two to four different laws in the same Congress. The date of enactment and a statute page cite might also be shared by another law. It is sufficient, however, to cite older laws with all three identifiers as in "the Act of June 20, 1874, Chap. 341, 18 Stat. 123". When amendments were made to older laws frequently a longer identifier was used as in "the act of June twentieth eighteen hundred and seventy four entitled 'An act fixing the amount of United States notes, providing for redistribution of national security, and for other purposes'."

Unique public and private law numbers were assigned to individual laws as early as 1908 with the 60th Congress (as in Public No. 107 – 60th Cong.) and placed in the margin or heading area of a law but these did not become official identifiers until 1957. Since 1957 sequentially assigned public law numbers became the unique identifier for public laws and a sequentially assigned private law number became the unique identifier for private laws, but chapter numbers are the official designators for laws prior to 1957.

By their nature, unique identifiers do not need to be accompanied by other information to be identified, but official citation manuals generally require more information, as in the "National

Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852" or "Priv. L. No. 94-75, 90 Stat. 2985 (1976)".

Q. I have been told that titles of the United States Code are only "prima facie" law. What does that mean and can I rely on them?

A. "Prima facie" is Latin for "at first sight" or "on first appearance", "on the face of it". It is fact presumed to be true unless disproved by some evidence to the contrary (*Black's Law Dictionary*). In 1926, some members of the Senate balked at enacting the *United States Code* into "positive and legal evidence of the law" while repealing all previous law. This was no doubt due in part to the many alleged inaccuracies of the similarly enacted *Revised Statutes of the United States* in 1873. A compromise to have the *Code* enacted "prima facie" for a period of one year, in order to work out the bugs, was also ultimately not acceptable either. Thus, although the *U.S. Code* was published as part of the *United States Statutes At Large* (Vol. 44, Part 1) it was never as a whole approved as positive law. If there is some discrepancy between the Code and a statute and its statutory amendments, the statute rules.

The *United States Code*, although not enacted as positive law, is regularly updated, and as a subject organized consolidation of all general and permanent statutes in force, it is today looked upon as the primary source for current law.

Over the years since 1926 many titles of the *United States Code* have been carefully revised, codified with new sections and enacted separately into positive law (but not their appendices which were assigned to the title later). These enacted titles include titles 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 44, 46, and 49. Thus a total of 23 out of 48 titles of the *United States Code* (titles 6 and 34 were repealed or eliminated) have been enacted into positive law and their text is legal evidence of the law. The matter contained in other titles of the *Code* is prima

facie evidence of the laws. The *Internal Revenue Code*, which is identical to title 26 of the *U.S. Code* has also been enacted into positive law.

It is now part of the duties of the Law Revision Counsel of the House of Representatives to revise and prepare other titles for enactment into positive law. The Law Revision Counsel also assigns Code sections to newly enacted laws.

Q: I have found number of places in the U.S. Code with references to federal entities that no longer exist. How can that happen?

A: Frequently when a law abolishes or merges federal entities, complete conforming amendments to other parts of the Code are not made at the same time. Thus there is the discrepancy. When selected titles of the Code are enacted into positive law, the Law Revision Counsel will do the research and try to make the necessary changes to other parts of the Code. In lieu of the Law Revision Counsel doing work to recodify a title there is usually no vocal constituency pushing Congress to clean up a statute or a portion of the Code.

Q. I have a cite to the 19th century Revised Statutes of the United States. Is this law still valid, and what about U.S. laws enacted before that time?

A. "An act providing for publication of the Revised Statutes and laws of the United States" was approved on June 20, 1874. In section 2 of the Act, the Secretary of State was charged with the duty of causing to be prepared the printing, publication, and distribution of the *Revised Statutes of the United States* which would contain a revised and consolidated compilation by subject of all the general and permanent laws of the United States in force on December 1, 1873 (published in 1875, see 18 Stat., part I). All acts embraced by the revision prior to that date were repealed and the revision would act as a substitute, but any law or portion of those laws not embraced by the revision and not repealed or superseded (such as local, private, and

appropriation laws) would still be in force (see section 5596 of the *Revised Statutes*).

However, although a great deal of competent persons worked on the revision from 1866 through 1873, it was discovered even before the publication of the *Revised Statutes* that there were numerous errors not intended by Congress. To correct these errors and to bring the revision up to January 1, 1878, a new edition of the *Revised Statutes* was published as a unnumbered volume of the *Statutes At Large*. The 1878 revision was not enacted into positive law ("legal and conclusive evidence of all laws contained therein"), but merely prima facie law ("legal evidence") and would "not preclude reference to, nor control, in case of any discrepancy, the effect of any original act as passed by Congress since the first day of December, eighteen hundred and seventy-three" (see Act of March 9, 1878, chap. 26, 20 Stat. 27).

Today there are still laws that amend and refer to the *Revised Statutes of the United States* (such as the national banking laws), but they are not amendments to the *Revised Statutes of 1878*. However, a table on the status of each section of the *Revised Statutes of 1878* and where it can be found in the *United States Code* is located at the beginning of the tables volume of the U.S.C., U.S.C.A. and U.S.C.S.

Many treaties (especially Indian treaties) and certain private and local laws approved before 1874 may still be binding even though they were not included in the *Revised Statutes of the United States*.

III. Questions on Legislative Histories:

Q: In *United States Code and Congressional and Administrative News* I can't find any legislative history information on a particular section of the *U.S. Code* I'm looking at, even though that is where the annotation in the *U.S.C.A.* told me to look. What gives?

A: The *United States Code and Congressional and Administrative News* (USCCAN) does not include all pertinent legislative history

documents to a particular law, or even the references to them — it is simply a starting point that has important drawbacks. It will set out the text of new laws, but the legislative history material included is usually rather spotty. USCCAN will publish that portion of a conference report which contains the joint explanatory statement of the conferees on a bill that has become law (if there is one), and it will also set out the text of one of the related committee reports (if there is one) from the House or Senate. At the beginning of the legislative history portion of a law USCCAN will generally note the committee report number of a companion piece of legislation as well the dates of passage in each chamber. The actual amount of remarks and debate related to the law's history may be far more extensive, even going back to previous Congresses and the law's related bills and reports may be much more numerous than those listed as well. These are editorial decisions that the publisher, the West Group, makes, based partially, no doubt, on space limitations.

So beware! The *United State Code Annotated* (USCA), also published by West, will note in its annotations the available USCCAN legislative history of a law cited to as authority by a particular section of the Code, but the history, while related to the law, may have nothing relevant to say about the particular section in question. Even if you find some relevant legislative history in USCCAN, there may be many other very pertinent pieces of the legislative history to the section that are not included in USCCAN. This is particularly true for lengthy and/or complicated legislation (such as omnibus bills) and/or legislation that took more than one Congress to be enacted. Try to supplement the information in USCCAN with other sources whenever possible. Often, the legislative history notes at the very end of the slip law not only identify the bill enacted, but also the number of the companion bill in the other chamber. You can use these bill numbers as starting points for further research using online databases, the Internet, or even the

“History of Bills and Resolutions” section of the bound *Congressional Record* to get a more complete picture. In recent decades the annual CIS Legislative History volume provides abstracts and notes on most of the legislative history documents to a particular law.

Q: A patron has requested a legislative history of a particular public law that we do not own and may not have collected documents for. What should I do?

A: Sometimes, just looking in USCCAN will answer the request. USCCAN reprints Congressional reports — generally the conference report joint explanatory statement and either the House or Senate Committee report. Often, this will be sufficient for your requester. If the patron decides more information is needed, first remember to check the *Union List of Legislative Histories* volume of the Law Librarians' Society of Washington, D.C. (LLSDC). Many agencies and firms in D.C. and elsewhere compile and bind legislative histories for their agency or firm's use. Do not reinvent the wheel.

If no one has the required history, you'll need to begin gathering the items included in a legislative history including the law, reports, debate, bills, hearings, and any other relevant documents.

Start slowly, since the answer to their particular question may be in the report or the debate, so there may be no need to track down all the parts. If you are unsure which documents are relevant, try looking at the *CIS Legislative History* series for the year your law was enacted. For laws prior to 1970, when CIS began publishing, it is best to start with the History of Bills and Resolutions in the bound *Congressional Record Index* of the session or Congress during which your law was proposed or enacted.

All Congressional reports are reprinted in the *United States Serial Set*, published by the U.S. Government Printing Office (GPO). The *Set* now has over 14,000 volumes and contains

documents dating from 1833. All regional government depository libraries will own the *U.S. Serial Set* and many other large libraries may own portions of it or have it on microfiche. GPO publishes an index to the schedules and volumes of the *U.S. Serial Set* and CIS also produces a detailed index. Check LLSDC's *Union List of Legislative Documents* to locate local libraries holding the set and the indices.

Hearings are generally considered the weakest source of legislative intent, but sometimes a statement by a witness, particularly one from a relevant agency, is right on point and may be your only relevant source. The CIS Index is your best source to identify hearings and a number of libraries around the city and the country keep the CIS microfiche collection of hearings and others retain selected hard copy of hearings that correspond to their usual subject collections (i.e., a firm that practices tax law would most likely have tax hearings, etc.).

In the recent decades complete legislative histories for selected public laws have been placed on WESTLAW and LEXIS-NEXIS and both services have the *Congressional Record* online back to 1985 and Congressional bills and reports back to 1989. Other online sources such as GPO ACCESS, THOMAS, CIS Congressional Universe, and CQ.com OnCongress also have various Congressional documents and material useful for creating legislative histories (see "Internet and Online Sources of Legislative and Regulatory Information" located in another part of this source book).

Q: In a large legislative history, how do I figure out the best place to look for the legislative intent of a particular provision?

A: The most likely place to find legislative intent language is generally at the point the provision made its way into the history of the act. Start by determining the "coordinates" of your particular provision by finding the provision in the slip law and noting its context. Note the exact wording, the section numbering and

heading of the provision, the title containing the provision, the provisions preceding and following it, etc. This effort will help you more easily locate the provision in earlier versions of bill texts and in explanatory language in the history's reports, debates and hearings.

After noting these things the first place to examine legislative intent is in the joint explanatory statement of the conference report (if there is one). Since the agreed upon text of a conference report is generally the same text as presented to President and is in the final stage of the legislative process, joint statements by the conferees generally hold considerable weight as far Congressional intent goes. There may be no section numbering in the joint explanatory statement but such statements are almost always organized in the same order as the agreed upon legislative text in the conference report and if you have noted the location context of your provision you should be able to find some sort of brief explanation about it.

If there is little of relevance in the joint explanatory statement or if you want to find more relevant statements try examining some of the bills as reported to see if the same provision (or similar provision worded differently) is present and then check the bills' accompanying committee reports for relevant explanations or section-by-section summaries. It is also helpful to review the background or purpose section of the reports.

If your provision is not located in any of the bills as reported then there is a good chance that it was added on the House or Senate floor. In that case there may well be an explanation in the *Congressional Record* for the provision when the amendment was dealt with on the floor. Or perhaps the provision is the same as introduced and there might be an introductory statement by the sponsor in the *Congressional Record*. Witnesses at Congressional hearings (especially witnesses from federal agencies with jurisdiction) may have made comments about the provision or about the need for such a provision and these can be reviewed. A large legislative history may go back several Congresses and thus

additional bills, reports, debates, and hearings might have to be examined as well.

The same steps can be employed electronically (and usually more easily) if the law was enacted in the last decade and a half. All bill texts in an entire Congress can be searched for certain key words in your provision and all statements in the *Congressional Record* can be searched as well. Although unofficial, many prepared witness statements and verbatim transcripts of Congressional hearings are also searchable online. News articles with possible explanations for your provision might also be searched, but this of course would have little weight before a court.

Recap: to find the legislative intent of a particular provision in a large legislative history, first find your provision in the slip law and determine its context so that you may use this information to locate similar language in the component documents of the legislative history. In the legislative history, the best places to find substantive comment by Congress is at the point the provision is added or amended in the history. The order of preference of documents to find legislative intent is usually the following: 1) the joint explanatory statement (usually brief) in the conference report, if there is one; 2) the summary or explanatory language in committee reports; 3) the remarks, discussion and debate in the Congressional Record, especially those by the floor managers or key sponsors of the legislation; and 4) the statements made in Congressional hearings.

IV. Questions on the *Congressional Record*:

Q: On C-SPAN a patron heard a member of Congress make an inflammatory remark on the floor of the House several days ago. However, I can not seem to find the remarks in the *Congressional Record*. Doesn't the *Record* reproduce remarks verbatim?

A: The simple answer is, no, it is not verbatim. Congressional members are allowed a brief time

to edit their remarks before the Record is printed the next day. Many of them use this opportunity to correct glaring grammatical errors, as well as off-the-cuff remarks, that they would prefer be removed from public record. They also have a second chance to change their remarks before the bound edition is published. In the House of Representatives, inflammatory remarks can also be stricken from the Record on a point of order to "take down the words." Clause 9 of Rule XIV of the Rules of the House of Representatives mandates that the Record be a "substantially verbatim" account of debate, but permits the deletion of unparliamentary remarks by order of the House.

Although rarely used in the Senate, Clause 5 of Rule 19 of the Standing Rules of the Senate also permits the taking down of "exceptionable words". Such exceptionable or objectionable words may then be ordered expunged from the Record on a simple unanimous consent motion.

It is also good to know that not everything printed in the Record was actually spoken on the floor. Insertions of speeches, articles and bill texts are very common. Generally, in the House, these insertions are printed in a slightly different font (hans-serif) to make it obvious which remarks were said aloud and which were inserted later. In the Senate there are bullets placed before such insertions.

Q: How can I find the citation to the bound volume of the *Congressional Record* if I only have the cite to the daily edition?

A: There is no source that will give you the exact correlation between daily and permanent edition pages. This requires a bit of research. Since the 1960's, the Daily Edition has been numbered sequentially within certain segments, S for Senate chamber actions, H for House chamber actions, E for extension of remarks, HL for lobbyist listings, and D for the Daily Digest. The Bound Edition of the *Congressional Record* just numbers everything sequentially in any given Congressional session (except for the Daily Digest section). The Bound Edition is generally

published several years after the Daily Edition comes out and currently there is no publicly available electronic source for it. However, it is considered the authoritative cite once it is published. Most government depository libraries will generally have the bound *Congressional Record* in microform, but now only regional depository libraries receive it in hard copy.

If the cite is to the debate with no bill number, find the part of the *Congressional Record* that includes the date on which the debate occurred in the Daily Digest section of the Bound Edition (the last book in any volume of the permanent edition). In the Daily Digest, go to the date of the debate and then find the reference in the Daily Digest for that particular debate. This will give you either the beginning page or the range of pages for the debate. It will also give you an outline of debate so you may be able to guess how far into the debate you may want to search for your cite. Now you read through the debate looking for your quote.

If the cite is to a member speaking about a bill, find the part in the Bound Edition of *Congressional Record* that includes your date and find the member in the Bound Edition's Index/History of Bills. The Index groups comments by members by type: Amendments offered, bills and resolutions introduced by, remarks on, etc. Find the member whose quote you need. Make a note of the Congressional Record page numbers covered for your date and look in the material listed under the member for a page which falls within your designated range. [Beginning in 1983, volumes of the Index contain the dates with the page numbers. This date information is not included in the History of Bills.] You can also use this method when searching for colloquies. Just look for a page where both members are listed as speaking.

If you have a copy of the page in the Daily Edition then you can use it to visually locate it in the Bound Edition. Frequently the Bound Edition page will look exactly the same as the Daily with same paragraphs in the same place. If not, you can at least zero in on a nearby

paragraph that begins with a certain phrase or unusual word.

V: Questions on Hearings, Committee Rosters, and Treaties:

Q. The Congressional Information Services (CIS) Index does not seem to list a particular congressional hearing that was held several years ago. I'm pretty sure the hearing took place. Where else can I look?

A. Some hearings are never published such as those concerning national security and minor nominations to executive and judicial positions. Others may take several years to be published depending on the priorities of the committee. Two or three month after being held is usually is the fastest time a hearing gets published. To verify that a hearing took place you can check the Daily Digest section of the *Congressional Record*, but this source may not always have field hearings or hearings taking place after Congress has adjourned. You could also call the committee, look at its home page or get a hold of the published committee calendar. Of commercial online sources, *CQ.com* *OnCongress* is probably the most accurate (they call to verify witnesses have spoken). To get the text of a hearing before it gets officially published you might try obtaining the prepared statements from the witnesses or from the committee, if they have extra copies. Many federal agencies and committees place prepared statements on their Internet web pages. Commercially, Federal News Service (FNS) and Federal Documents Clearing House both make prepared statements and some Q&A transcripts (FNS should have most of them) available electronically (by subscription) via the Internet, Lexis-Nexis, Westlaw, CQ's OnCongress, Dialog, DataTimes, and Dow Jones News Services and others. However, it is important to realize that these commercial transcripts are unofficial. Before a hearing gets published witnesses are generally given copies of the

transcripts of their remarks and are allowed to edit them.

Q: Where can I find a list of congressional committee members in a previous Congress?

A: Since 1947 (80th Congress) a list of the members of Congressional committees have been published in the annual edition of *United States Code and Congressional and Administrative News*, published by the West Group. Further back, the official *Congressional Directory*, published by GPO and printed as a Senate print or publication, has been around since the 1830s. Most all government depository libraries receive the *Congressional Directory*, although few would have it as far back as the 19th century. The Center for Legislative Archives (202-501-5350) of the National Archives and Records Administration does have the *Directory* back that far and it is also regularly published as a volume of the *United States Congressional Serial Set* held by many government depository libraries.

Other sources include old committee calendars and old congressional hearings as members of the committee and the subcommittee holding the hearing are normally listed inside the front cover of each hearing.

Q: Where can I find the text of a treaty entered into by the United States in the 1920's?

A: Before 1950 all U.S. treaties with foreign nations were officially published at the end of each volume of the *United States Statutes At Large*. A microform compilation of this pre-1950 series is available to federal depository libraries and is entitled *Treaties and Other International Agreements of the U.S.* (1776-1949). Since 1949 treaties have been continuously published in slip form as part of the *Treaties and Other International Agreements Series* (TIAS), and in bound form in the *U.S. Treaties and Other International Agreements* (UST). The annual State Department list, *Treaties in Force*, organized by country and subject, gives you the official cite to a particular

bilateral or multilateral treaty that is currently in force.

Senate treaty documents or executive reports also contain treaties and agreements, and since 1979, these documents have been made part of the large multi-volume *U.S. Congressional Serial Set*. There have also been unofficial printed and electronic compilations of U.S. treaties (Bevans, Hein, Oceana as well as LEXIS (see INTLAW library, USTRTY file dating from 1783) and WESTLAW (see USTREATIES file dating from 1979).

VI: Questions on Executive Orders and Federal Regulations:

Q: How can I find the text of a Presidential executive order if I only have its number, and how can I tell if it's still valid?

A: Executive Orders of the President are officially published in a variety of places including the *Federal Register*, the *Weekly Compilation of Presidential Documents*, Title 3 of the *Code of Federal Regulations*, and the *Public Papers of the President* (before 1989) series. Most policy-oriented executive orders also are assigned to a particular section of the *United States Code* and published in the note field following that section. The location of these assigned orders, as well as whether the order was eliminated, can found in the back of the tables volume of the *United States Code*, the *United States Code Annotated*, and the *United States Code Service*. In the past, the Office of the Federal Register has published compilations of executive orders of general applicability and continuing effect. The last one published is entitled *Codification of Presidential Proclamations and Executive Orders: April 13, 1945 - January 20, 1989*. On its web site the Office maintains a disposition table of executive orders from 1961 to the present; see <http://www.nara.gov/fedreg/eo.html#top>. Presidential executive orders can also be found in the annual *United States Code and Congressional and Administrative News* (USCCAN) published by the West Group and on

various online services which publish the *Federal Register* or the *U.S. Code*. WESTLAW also has executive orders dating from 1936 in their PRES file and LEXIS-NEXIS has the same dating from 1981 in their file, PRESDC.

Q: How can I find the implementing regulations to a specific section of a U.S. public law?

A: First, using tables in the *United States Code Service* (U.S.C.S.) or the *United States Code Annotated* (U.S.C.A.) find the U.S. Code cite to the section of the public law. Then look up that section in the U.S.C.S. or the U.S.C.A. and see if the note field following the text of the section gives a corresponding reference to the *Code of Federal Regulations* (C.F.R.).

If there is no corresponding reference there, look in the *CFR Index and Finding Aids* to the “Parallel Table of Authorities and Rules” which organizes parallel tables to the C.F.R. by *U.S. Code* section, *Statutes At Large* cites, public laws, and Presidential documents. These authority cites are designed to match those authorities listed at the beginning of each part of the *Code of Federal Regulations*. The C.F.R., organized by subject title and agency, is reissued annually after being updated to include finalized agency rules published in the daily *Federal Register* during the previous year. As all these cross-references and parallel tables may not pick up every rule change and do not reflect proposed rules, it may be wise to perform an online search of the *Federal Register* and perhaps check the *Federal Register Index* in the year(s) following enactment of a *U.S. Code* section or section amendment.

It must be noted that many sections of the *United States Code* may not have regulations that implement them or there may be many regulations listed under a Code cite that are only tangentially related to that section of the law. Similarly it is sometimes difficult to tell which authority cite to the *U.S. Code* in a part of the *Code of Federal Regulations* actually prompted a regulation and which authority cite is only tangentially related to the regulation or only

refers to an agency's general powers and responsibilities.

Q: How come I can not find a summary and rationale for a particular rule in the *Code of Federal Regulations*, but preambles of this nature can be found when the rule is published in the *Federal Register*?

A: According to its *Document Drafting Handbook*, the Office of the Federal Register mandates certain “preamble requirements” from federal agencies when they publish their proposed or final rules in the *Federal Register*. These requirements delineate the basic “who, what, where, when, and why” information and are set out as AGENCY, ACTION, SUMMARY, EFFECTIVE DATE (or DATES when comments are due), FOR FURTHER INFORMATION CONTACT, and SUPPLEMENTAL INFORMATION (which generally explains the regulatory history, the rationale for the rule, and a summary of the comments received).

The preamble to a new or revised rule is not part of the regulation, per se, and thus is not required to be published in the *Code of Federal Regulations*. It should also be noted that most preambles are written for rule amendments rather than for the whole rule, and thus, any general preamble would have to be continuously updated much like a summary of a statute in a continuously amended law. Since 1978, however, whenever a final or proposed rule is published in the *Federal Register*, a preamble, following the above format, precedes the text of the regulation. Before that time, preambles seemed to be less lengthy and not as precisely organized, and before 1971 brief explanations of regulations followed, rather than preceded, the text of regulations published in the *Federal Register*.