

United States Statutes: Historical Outline and Source Notes

Prepared by Richard J. McKinney, Assistant Law Librarian, Federal Reserve Board, for Law Librarians' Society Program, November 9, 2004
Last revised in April 2008

A. Introduction - Publishing Laws - The Various Ways States and Nations Publish Them

- 1) Each separately - as in slip laws or grouped in advanced legislative services or gazettes
- 2) Chronological volumes for each assembly session - as in the U.S. Statutes At Large
- 3) By subject matter - as in U.S. Code titles or congressional committee compilations
- 4) Within other publications - as in newspapers, bulletins, loose-leaves, the Internet, etc.
- 5) Comparisons of U.S. with states and other nations - codes and session laws - currency & accuracy
- 6) Legislative counsels and Reviser counsels - drafting laws & assigning code cites to new laws

B. Early Publication of U.S. Laws

- 1) Slip laws - authenticated copies sent by Secretary of State to senators, reps & governors; others must pay a fee to get an authenticated copy - per Act of Sep. 15, 1789, ch. 14, 1 Stat. 68.
- 2) Newspapers - same Act provided for publication of laws in at least 3 state newspapers (till 1875).
- 3) **Folwell edition** - *Laws of the United States* per Act of Mar. 3, 1795, ch. 50, 1 Stat. 443. New edition of Constitution, laws, treaties and continued for each session (1789-1814).
- 4) **Bioren & Duane edition** - *Laws of the United States* per Act of Apr. 18, 1814, ch. 69, 3 Stat. 129, et. al. under the auspices of the Secretary of State. New edition of Constitution, laws & treaties (1789-1815) and continued for each session by others, published until 1845; Private acts are included, but not laws pertaining to the District of Columbia.
- 5) Subject compilations of statutes, treaties and administrative documents authorized by Congress including Public Lands (Act of Apr. 27, 1810, 2 Stat. 589; Act of Jan. 20, 1817, 3 Stat. 344), Naturalization (Act of Apr. 16, 1816, 3 Stat. 341), Post Office (Act of Aug. 29, 1842, 5 Stat. 538).

C. The U.S. Statutes At Large Begins

- 1) Little, Brown & Co. of Boston, which had proposed the new edition, were the first publishers. Per Res.10 of Mar.3, **1845**, 5 Stat. 798 Attorney General authorized to review & contract out new edition of laws containing Articles of Confederation, Constitution, public & private laws, foreign treaties, and Indian treaties with footnotes indicating subsequent laws or repeals and applicable court decisions and with a general index and appendix listings all acts, resolutions and treaties.
- 2) Arranged in chronological order, each set of laws in a congressional session being a **statute** and each public or private law being a **chapter** in a statute. The public and private acts were grouped separately so that numerical gaps appear and since each congress could have 2 to 4 sessions more than one law per congress could have the same chapter number. No unique numbering meant that statute pages, dates, and official long titles were often used in citations as well as chapter numbers. This chapter citation system was continued until 1957 when public law numbers officially used.
- 3) The Little, Brown & Co. edition was declared "to be **competent evidence** of the several public and private acts of Congress, and of the several treaties therein contained" per Act of Aug. 8, 1846, 9 Stat. 76. First time published volumes of statutes were made positive evidence of the law.
- 4) **Eight volumes** were first published and the Secretary of State was empowered to contract with Little & Brown to furnish annual Statutes At Large to the government, discontinuing successive publications of the Bioren & Duane edition; per Resolution of Sep. 26, 1850, 9 Stat. 564.
- 5) Government Printing Office was established in 1861 by the Printing Act of June 23, 1860 (12 Stat. 118) due to perceived shortfalls in contract printing. Little & Brown edition retained, for now, but GPO began publishing (until 1937) **annual volumes of the Statutes of the United States**.
- 6) Commission established "to revise, simplify, arrange, and consolidate all statutes of the United States, general and permanent in their nature." (Act of Jun. 27, 1866, ch. 140, 14 Stat. 74).

D. Noted Content and Changes in Publishing the Volumes of the Statutes At Large Over Time

- 1) Volume 1 (1st - 5th Cong., 1789-1799) - Public Acts of Congress in the first five congresses.
- 2) Volume 2 (6th - 12th Cong., 1799-1813) - Public Acts of Congress in six congresses.
- 3) Volume 3 (13th - 17th Cong., 1813-1823) - Public Acts of Congress in five congresses.
- 4) Volume 4 (18th - 23rd Cong. 1823-1835) - Public Acts of Congress in six congresses.
- 5) Volume 5 (24th - 28th; 1835-1845) - Public Acts of Congress in five congresses.
- 6) Volume 6 (1st - 28th; 1789-1845) - Private Acts of Congress in the first 28 congresses.
- 7) Volume 7 - United States Treaties with Indian Tribes (246 documents; 1778-1842)
- 8) Volume 8 - United States Treaties with Foreign Nations (90 documents; 1778-1845; includes general index to the first eight volumes).
- 9) Volume 9 (29th - 31st; 1845-1851) - Public and Private Acts of Congress in three congresses. The volume also contained **foreign and Indian treaties, presidential proclamations** and an index as did subsequent volumes until volume 65 (82nd Congress, 1951) when treaties no longer included.
- 10) Volume 10 (32nd - 33rd Cong., 1851-1855) - Public and Private Acts of two congresses. Volumes 11, and 12 also covered two congresses each (34th - 37th; 1855-1863).
- 11) Volume 13 - Public and Privates Acts of the 38th Congress; 1863-1865. Thereafter subsequent volumes of the Statute At Large **covered one congress until** first session of 75th Congress (1937). At end of the appendix of presidential proclamations are five executive orders (only occurrence).
- 12) Volume 18 (43rd Cong.; 1873-1875) - U.S. Government Printing Office began publication of the *Statutes At Large* under State Department auspices continuing the volume numbers of Little, Brown & Co. and the volumes also became taller (about 11.5 inches instead of 10 inches). Part I of volume 18 is the ***Revised Statutes of the United States***, which is an entire revision, reorganization and consolidation of all permanent and general U.S. laws with the repeal of all prior law dealt therein as of December 1, 1873. It is also legal evidence of the law and treaties contained therein. See Act of June 20, 1874, 18 Stat. 113, pt. 3, ch. 333. Part II contains the Revised Statutes relating to the District of Columbia, the Revised Statutes relating to Post Roads, and Public Treaties of the United States organized by country and year. Part III contains the public and private acts of the 43rd Congress with treaties and proclamations.
- 13) A replacement volume contains the *Revised Statutes of 1878*, which added corrections and updated the Revised Statutes of 1873. It is legal (and apparently prima facie) evidence of the law. See Act of Mar. 2, 1877, ch. 82, 19 Stat. 268 as amended by Act of Mar. 9, 1878, ch. 26, 20 Stat. 27.
- 14) Volume 28 (53rd Cong., 1893-1895) - Statutes At Large began including **concurrent resolutions**.
28 Stat. 615 – pamphlets & Statutes At Large are “competent evidence” (1 USC 113)
- 15) Volume 32 (57th Cong., 1901-1903) - Statutes At Large began assigning public law numbers in the margins to acts for each congressional session. Private law numbers were also assigned to private laws which generally included in Part II with concurrent resolutions, treaties and proclamations.
- 16) Volume 33 (58th Cong., 1903-1905) - Statutes At Large began **showing in the margin the bill number** or joint resolution that was enacted into law (per Act of Apr. 12, 1904, No. 20, 33 Stat. 589; 44 USC 729). Before that time refer to *Legislative Reference Checklist: the Key to Legislative Histories from 1789-1903* by Eugene Nabors, Rothman & Co., 1982.
- 17) Volume 35 (60th Cong., 1907-1909) - Statutes At Large began assigning each public and private act a **unique public or private law number within a congress** rather than a congressional session. This number was placed in the margin. Slip laws also had this number (Public, No. ##).
- 18) Volume 47 (72nd Cong., 1931-1933) - Statutes At Large began publishing **international agreements**. The **use of subsections** gradually became more common in the 1930's.
- 19) Volume 50 (75th Cong., 1st Sess., 1937) - Statutes At Large began the practice of issuing a new **volume every congressional session instead of every congress** (sometimes with multiple parts).
- 20) Volume 52 (75th Cong., 3rd Sess., 1938) - Statutes At Large began showing the public law number (termed "Act") in the table of contents, but no popular name index until volume 105 (1991).

- 21) Volume 55 (77th Cong., 1st Sess., 1941) - Statutes At Large began using the title "Public Law" in the margin instead of "Public, No." Also in 1941 **West begins its publication**, U.S. Code Congressional Service, which contains most of the U.S. Statutes and selected related legislative history documents. It is succeeded in 1951 by U.S. Code Congressional and Administrative News.
- 22) Volume 63 (81st Cong., 1st Sess., 1949) - Statutes At Large began being published **under the direction of the Federal Register Division**, National Archives and Record Service instead of under the Secretary of State (Act of Sep. 23, 1950, ch. 1001, §1, 64 Stat. 979, 1 U.S.C. 112).
- 23) Volume 65 (82nd Cong., 1st Sess., 1951) - Statutes At Large **no longer publishing treaties and int'l agreements** but began publishing an individual index & PL numbers placed above statute.
- 24) Volume 71 (85th Cong., 1st Sess., 1957) - Statutes At Large **no longer using chapter numbers. Public and private laws are now officially cited** using their uniquely assigned public and private law numbers. The Statutes also began publishing, until 1970, tables on amendments and repeals of previous laws. At this time Statute volumes resumed a height of 10 inches instead of 11.5 inches.
- 25) Volume 89 (94th Cong., 1st Sess., 1975) - Statutes At Large began publishing **each public law on a new page** thus allowing Statute page references to be included in the initial publication of individual slip laws. Brief **legislative history references** also began to be published at the end of each law, which had been the practice on slip laws since the first session of 88th Congress (1963).

E. Electronic Sources for U.S. Statutes and Public Laws

- 1) GPO Access has full text of all public laws/statues **from 1995** (104th Cong.; text & PDF)
- 2) GPO Access has text of all bills (see enrolled version) from 1993 (103rd Cong.; text & PDF)
- 3) THOMAS has full text of all bills (see enrolled version) **from 1989** (101st Cong.; html)
- 4) Library of Congress American Memory Project has U.S. Statutes At Large from **1789 to 1873** (<http://memory.loc.gov/ammem/amlaw/lawhome.html>)
- 5) Potomac Publishing Company has digitized U.S. Statutes At Large from **1789 to present** (PDF)
- 6) LexisNexis has Statutes (from PotomacPub.com) from 1789 accessible by citation & titles.
Note: Lexis arranges its PDF statutes in 10 page increments. Occasionally, pages are mixed up.
- 7) Westlaw now has **searchable** Statutes At Large from **1789 to 1972**; also with cite finders.
- 8) Westlaw has full text of public laws **from 1973** (93rd Cong.; see USCCAN-PL file)
- 9) LexisNexis has full text of public laws **from 1988** (100th Cong., 2nd. Sess.; see PUBLAW file)
- 10) LexisNexis has text of all bills (see enrolled version) from 1989 (101st Cong.)
- 11) Westlaw has text of all bills (see enrolled version) from 1995 (104th Cong.)
- 12) CQ.com has text of all bills (see enrolled version) from 1995 & archives **from 1987** (100th Cong.)
- 13) GalleryWatch.com has text of bills (see enrolled vers.) from 1997 (105th Cong.); TheLaw.net 99+

F. Information Sources on New Public Laws and Statutes

- 1) The House (202/225-3153) and Senate (202/224-8427) **Enrolling Clerk's office** have to prepare an enrolled version of their acts for the signature by House and Senate officers before a bill goes to the President. Note: On rare occasions, when speed is essential, an enrolled version of a large bill may not be prepared for the President's signature. See, for instance, Public Law 105-277 (H.R. 4328). The President has 10 days, beginning on midnight the day he receives it, but excluding Sundays and holidays, to sign or veto a bill. The enrolled version of an act (now available via GPO Access in PDF) has the exact pagination that the public law will have in statutory form.
- 2) The White House **Executive Clerk's Office** has a recording (202/456-2226) on recent Presidential action or reception of most bills. The recording will not note minor public laws or private laws.
- 3) The **Office of the Federal Register** (202/741-6040) assigns new public law numbers and statute pages in a consecutive manner and publishes the cites in the daily Federal Register and also on its PENS electronic mail service. It is usually available about 2-7 days after the President signs a law.
- 4) GPO publishes **slip laws some weeks or months later**. Until then use enrolled bill version or the conference report which is always published in Cong. Record and is frequently earliest text of law.

G. Bibliography and Source Material on United States Statutes

Congressional Record; and its *Index*. Government Printing Office (selected volumes and pages).

Conklin, Curt E. and Francis Acland. *An Historical and Bibliographic Introduction to the United States Statutes At Large*. 30 pp. Provo, Utah: Government Publication Press, 1992.

Dwan, Ralph H. and Ernest R. Feidler. "The Federal Statutes - Their History and Use," *Minnesota Law Review*, v. 22, pp. 1008-1029 (1938).

McKinney, Richard J. *Federal Legislative History Documents: Listings of Electronic Sources with Years/Congresses Available* at <http://www.llsdc.org/sourcebook/docs/elec-leg-hist-docs.pdf>.

Potomac Publishing Company. "History and description of the United States Statutes at Large and the United States Code" at <http://www.potomacpub.com/history.asp>.

Surrency, Erin C. "The Publication of Federal Laws: A Short History," *Law Library Journal*, v. 79, pp. 469-483 (1987).

United States Statutes at Large. Little, Brown & Company (1845-1873), Government Printing Office (1874 to present). Includes the *Revised Statutes* (of 1873 and 1878) and the *Code of Laws of the United States of America* (1926).