

C. THE CONGRESSIONAL RECORD

§ 15. In General; Purpose and Format

The *Congressional Record* is “substantially a verbatim report of proceedings” in the two Houses of Congress.⁽¹⁾ While the House Journal⁽²⁾ is the official record of the proceedings of the House,⁽³⁾ it contains only minutes of official actions, and is not a record of debate.

The statutory provisions and rules which govern the format⁽⁴⁾ and content⁽⁵⁾ are discussed below. In addition, it should be noted that although the Record is “substantially a verbatim report,” the rules of the Joint Committee on Printing and the general practices of the House permit Members to extend their remarks so as to include matters not spoken on the floor,⁽⁶⁾ and to edit remarks actually delivered on the floor.⁽⁷⁾ The House may also order the deletion from the Record of remarks

1. 44 USC § 901 (1970).

The origin, publication, and distribution of the Record is discussed in 5 Hinds' Precedents § 6959.

2. See §§ 8–14, *supra*.

3. 4 Hinds' Precedents § 2727.

4. See §§ 15.1, 15.2, *infra*.

5. See § 16, *infra*.

6. See § 20, *infra*.

7. See § 19, *infra*.

made by a Member without recognition by the Speaker, and unparliamentary remarks which reflect unfavorably upon the House, its membership, or institutions.⁽⁸⁾

Control over the arrangement and style of the Record is vested in the Joint Committee on Printing⁽⁹⁾ by statute.⁽¹⁰⁾ The Joint Committee on Printing has adopted rules to provide for the prompt publication and delivery of the Record.⁽¹¹⁾

Each House of Congress separately controls the content of its

8. See § 17, *infra*.

9. The Joint Committee on Printing is composed of three Members of the Senate and three Members of the House. The House elects its members from the Committee on House Administration, and the Chairman of that committee must be one of the three selected. *House Rules and Manual* § 1001 (1973).

10. 44 USC § 901 (1970). See also 44 USC §§ 902–910 (1970) for other statutory provisions relative to the *Congressional Record*.

11. The rules of the Joint Committee on Printing are frequently reprinted in the daily edition of the *Congressional Record* in the section entitled “Laws and Rules for Publication of the *Congressional Record*,” which precedes the section entitled “Daily Digest.” The individual rules will be considered herein as they pertain to the subject matter under discussion.

portion of the Record.⁽¹²⁾ By House rule, the Committee on House Administration has jurisdiction over “[m]atter relating to printing and correction of the *Congressional Record*.”⁽¹³⁾

House Rule XXXIV clause 1⁽¹⁴⁾ provides for the appointment and removal of the official reporters of debate, and vests in the Speaker the manner of the execution of their duties. The reporters of debates have played a significant role in the evolution by which the House has developed a system of daily verbatim reports of its proceedings.⁽¹⁵⁾

Congress has statutorily mandated that the Record be published in daily form during each session, and be revised, printed, and bound promptly in permanent form for distribution during and after the close of each session of Congress.⁽¹⁶⁾ Thus a daily edition is published and distributed on each working day while Congress is in session, and a softbound edition, known as the “greenbound” edition is published and distributed biweekly while Congress is

in session. The hardbound permanent edition is generally ready for publication and distribution sometime subsequent to the conclusion of a session of Congress.

The Record for each day is divided into four main sections: Proceedings of the House; Proceedings of the Senate; Extensions of Remarks;⁽¹⁷⁾ and Daily Digest. The Joint Committee on Printing has directed the Public Printer to arrange the contents of the daily edition of the Record so as to alternate the placement in consecutive issues of the House and Senate proceedings insofar as such an arrangement is feasible.⁽¹⁸⁾ The House and Senate proceedings directly precede the “Extensions of Remarks” section, which is followed by the “Daily Digest.”

Congress has directed the Joint Committee on Printing to provide for the preparation and publication of an index to the *Congressional Record* semimonthly while Congress is in session, and a complete index to the entire session subsequent to the close of each session of Congress.⁽¹⁹⁾ The index consists generally of two main

12. 8 Cannon’s Precedents § 2503.

13. *House Rules and Manual* § 693 (1973).

14. *House Rules and Manual* § 923 (1973).

15. See 5 Hinds’ Precedents § 6959.

16. 44 USC § 903 (1970).

17. See § 20, *infra*, for a discussion of the content of the “Extensions of Remarks” section.

18. Rule 1 of the Joint Committee on Printing, effective May 23, 1972.

19. See 44 USC §§ 901, 902 (1970).

parts, an index to proceedings, and a history of bills and resolutions, which is arranged by bill and resolution number.

As part of the Legislative Reorganization Act of 1946,⁽²⁰⁾ Congress adopted the following provision, which is the statutory authority for the Daily Digest:

The Joint Committee on Printing shall provide for printing in the daily Record the legislative program for the day together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter. It shall cause a brief résumé of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively.

The Daily Digest regularly contains the following subsections: Highlights; Senate Chamber Action; Senate Committee Meetings; House Chamber Action; House Committee Meetings; and Joint Committee Meetings. A list of House and Senate committee meetings scheduled for the morning of which the Record is published concludes the Daily Digest. In addition, the Friday issues contain a section entitled "Congressional Program Ahead" which discusses the activities scheduled in

²⁰. See 44 USC § 905 (1970).

the House and Senate and their committees for the coming week.

The Joint Committee on Printing has specified to the Public Printer the type size and printing style that is to be used in the publication of the Record.⁽¹⁾ Neither the Speaker nor the House may order changes in the type size or printing style without the approval of the Joint Committee on Printing.⁽²⁾

A Member, upon payment of the cost, may receive from the Public Printer extracts from the *Congressional Record* for his personal use and distribution.⁽³⁾

When reprints are to be made of material in the Record by the Government Printing Office, it is customary to obtain the approval of those Members whose remarks are to be reprinted.⁽⁴⁾

Format Changes

§ 15.1 A unanimous-consent request to change the format of

1. See Rule 2 of the Joint Committee on Printing, effective May 23, 1972.
2. See §§ 15.1, 15.2, *infra*.
3. 44 USC § 907 (1970). See 44 USC § 908 (1970) for the statutory procedure by which the Sergeant at Arms may deduct the cost of printing the extracts from the salary of a Member or Delegate who is delinquent in paying for the extracts.
4. See § 15.4, *infra*.

the Record to permit a comparative print of three versions of a legislative enactment to be printed in three parallel columns should be submitted subject to the approval of the Joint Committee on Printing.

On Oct. 30, 1939,⁽⁵⁾ Mr. Lawrence Lewis, of Colorado, requested unanimous consent that a comparative print showing the Neutrality Act of 1937, together with House Joint Resolution 306,⁽⁶⁾ as passed by the House, and the same joint resolution as amended and passed by the Senate, be printed in the Record in three parallel columns. At the time of this request the proceedings of Congress were being printed in the Record in double parallel columns. The Speaker⁽⁷⁾ responded to this request to deviate from the basic format of the Record as follows:

THE SPEAKER: The Chair thinks it proper, in order to conform to the established rules of practice in the House with reference to the matter covered by the request of the gentleman from Colorado, to state to the gentleman that in the conference he had with the Chair this morning relative to this matter the information was not dis-

closed that the request would require a change in the usual format of the Record. The Chair is advised by the Parliamentarian that it would be contrary to the law with reference to printing of the Record to submit the request.

The Chair would suggest to the gentleman from Colorado that he submit his request subject to the approval of the Joint Committee on Printing.

Mr. Lewis amended the request to incorporate the suggestions of the Speaker, but an objection was raised. Later in the same meeting, however, a substantially similar request was agreed to by the House without objection, and the comparative print was inserted in the Record.⁽⁸⁾

Type Size

§ 15.2 The Speaker will not entertain a unanimous-consent request to permit a letter inserted in the Record to be printed in larger type than that provided in the regulations of the Joint Committee on Printing.

On Feb. 25, 1936,⁽⁹⁾ Mr. Joseph P. Monaghan, of Montana, re-

5. 85 CONG. REC. 1059, 76th Cong. 2d Sess.

6. 76th Cong. 2d Sess. (1939).

7. William B. Bankhead (Ala.).

8. 85 CONG. REC. 641 (appendix), 76th Cong. 2d Sess., Oct. 30, 1939.

9. 80 CONG. REC. 2767, 74th Cong. 2d Sess.

requested unanimous consent to have the Record corrected so that the letter he had previously inserted would be printed in 7¹/₂-point type in the permanent Record, rather than the type size that was specified for such documents in the rules of the Joint Committee on Printing.⁽¹⁰⁾ The Speaker⁽¹¹⁾ responded as follows:

THE SPEAKER: The Chair will state to the gentleman that letters, no matter by whom they are written, are printed in small type. The gentleman from Montana made no request that his letter be printed in any other form of type. That is a matter which rests entirely with the Joint Committee on Printing, and that committee has formulated certain rules, and the Chair assumes that the Public Printer is following the rules as laid down by the Joint Committee on Printing. What is the request of the gentleman?

Mr. MONAGHAN: I ask unanimous consent that the Record be corrected and that this letter be reprinted in 7¹/₂-point type, inasmuch as aged people are the ones who will read it.

THE SPEAKER: The Chair does not think he has a right to even recognize the gentleman to make a unanimous

10. The current rules of the Joint Committee on Printing still require such documents and "all matter included in the remarks for speeches of Members of Congress, other than their own words," to be printed in 6¹/₂-point type. See Rule 2 of the Joint Committee on Printing, effective May 23, 1972.

11. Joseph W. Byrns (Tenn.).

consent request on that matter, because that is fixed by law.

Reporters—Insertion of Applause

§ 15.3 Demonstrations in the House are not part of the Record, and the reporters are instructed not to insert "applause" or "loud applause."

On Mar. 6, 1945,⁽¹²⁾ the Speaker,⁽¹³⁾ in response to a parliamentary inquiry, stated his reasoning for instructing the reporters not to insert "applause" or "loud applause" in the Record where such demonstrations have occurred on the floor of the House:

In times past there appeared in the Record the word "Applause" where a Member spoke. In another place there was "Loud applause." In another place there was "Loud and prolonged applause." In another place there was "Loud and prolonged applause, the Members rising." If I had made a speech and had received "applause," and some Member had followed me immediately and had received "loud and prolonged applause, the Members rising," my opponent in the next primary might have called attention to how insignificant I was because I only received "applause" and the other Member had received "loud and prolonged applause, the Members rising."

12. 91 CONG. REC. 1789, 79th Cong. 1st Sess.

13. Sam Rayburn (Tex.).

The Chair has held that demonstrations in the House are not a part of the Record, and shall continue to hold that until the rules of the House are changed.

Later in the same discussion,⁽¹⁴⁾ Mr. Charles L. Gifford, of Massachusetts, called the attention of the House to the fact that in the Record of Mar. 1 there appeared an address in which the word “applause” appeared 20 times, and seemed to be a part of the proceedings of the House. Speaker Rayburn responded as follows:

The present occupant of the Chair was not here; and, furthermore, that was a joint session of the two Houses of Congress.

Reprints

§ 15.4 It is the policy of the Joint Committee on Printing and the Public Printer to request the approval of Members, whose remarks appear in the Record, before those remarks are reprinted and distributed pursuant to the request of another Member. (A Member requesting a reprint sometimes announces to the House that Members’ remarks on a particular subject will be included in a reprint unless they register objection.)

¹⁴ 91 CONG. REC. 1790, 79th Cong. 1st Sess.

On Feb. 28, 1950,⁽¹⁵⁾ Senator Harry P. Cain, of Washington, read to the Members of the Senate a letter from the Public Printer to Senator William F. Knowland, of California, dated Aug. 13, 1946, which explained the policy of the Joint Committee on Printing and the Public Printer concerning the reprinting and distribution of materials appearing in the *Congressional Record*. The letter, in relevant portion, is as follows:

In reply, I am pleased to advise that, since the *Congressional Record* is a public document, it is not copyrighted, and matter appearing in the Record may be reprinted by outside sources without obtaining a clearance from anyone. As to reprints by the Government Printing Office, it has long been the policy of the Joint Committee on Printing and this Office to ask for the approval of the Member whose remarks are to be reprinted before reprinting and distributing the same.

This is purely for the protection of each individual Member, as it not only protects the Members whose remarks are to be reprinted, but it also protects the Member who would order and distribute the same against charges of abuse of the franking privilege, unauthorized use of Federal funds, and so forth.

On Mar. 7, 1968,⁽¹⁶⁾ Mr. Daniel J. Flood, of Pennsylvania, made

¹⁵ 96 CONG. REC. 2490, 81st Cong. 2d Sess.

¹⁶ 114 CONG. REC. 5764, 90th Cong. 2d Sess.

the following announcement on the floor of the House, which illustrates a procedure by which the consent of Members, whose remarks are to be reprinted, is obtained:

Mr. Speaker, with respect to the 50th anniversary of Ukrainian independence, a private order is being submitted for reprint publication of all statements and other insertions made by Members of the House of Representatives prior, during, and after the January 22, 1968, event, which was observed in the House on January 23, 1968.

If there is no objection from any such Member, his or her statement or insertion will be incorporated in the reprint brochure, which has been requested by the Ukrainian Congress Committee of America.

§ 16. Matters Printed in the Record; Civil Liability

Statutory law, House rules, and the practices of the House regulate the content of the House portion of the Record. In addition, the House frequently agrees by unanimous consent to permit specific items to be inserted in the Record which would not ordinarily be included.

The oath of office subscribed to by Members and Delegates is required by statute⁽¹⁷⁾ to be printed

17. 2 USC §25 (1970).

in the Record. A list of Members filing the oath with the Clerk of the House is then recorded following the text of the oath.⁽¹⁸⁾

Occasionally an act of Congress requires a governmental activity to report to Congress and specifies that "the Clerk of the House . . . shall cause to be published in the *Congressional Record* all reports submitted pursuant to this law."⁽¹⁹⁾ Where publication of such reports in the Record is required by statute, the Parliamentarian furnishes a copy of the report to the Clerk at the time the communication is referred to committee, and the Clerk submits the report for printing in the Record.⁽²⁰⁾

The insertion of certain types of materials in the Record is prohibited. For example, maps, diagrams, or illustrations may not be

18. An example of the form of entry in the Record of the oath and the listing of Members subscribing to it may be found at 94 CONG. REC. 5750, 80th Cong. 2d Sess., May 12, 1948.

19. §4(b) of Pub. L. No. 85-804, an act to authorize the making, amendment, and modification of contracts to facilitate the national defense, is an example of such a statutory provision. This act is codified at 50 USC 1434 (1970).

20. For an example of the form of entry in the Record of such reports, see 107 CONG. REC. 4816-18, 87th Cong. 1st Sess., Mar. 24, 1961.