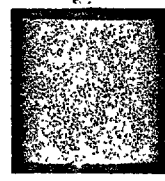
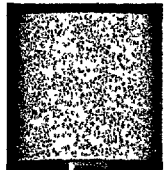


Legislative Research Guide

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PREFACE

In our work we often need to resort to legislative histories in order to construe statutes that we are applying.

This Legislative Research Guide written by James E. Masterson, Assistant General Counsel, is intended for use as a primer on the use of such histories.

Paul G. Dembling
Paul G. Dembling
General Counsel

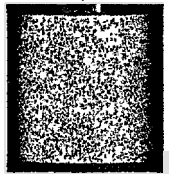
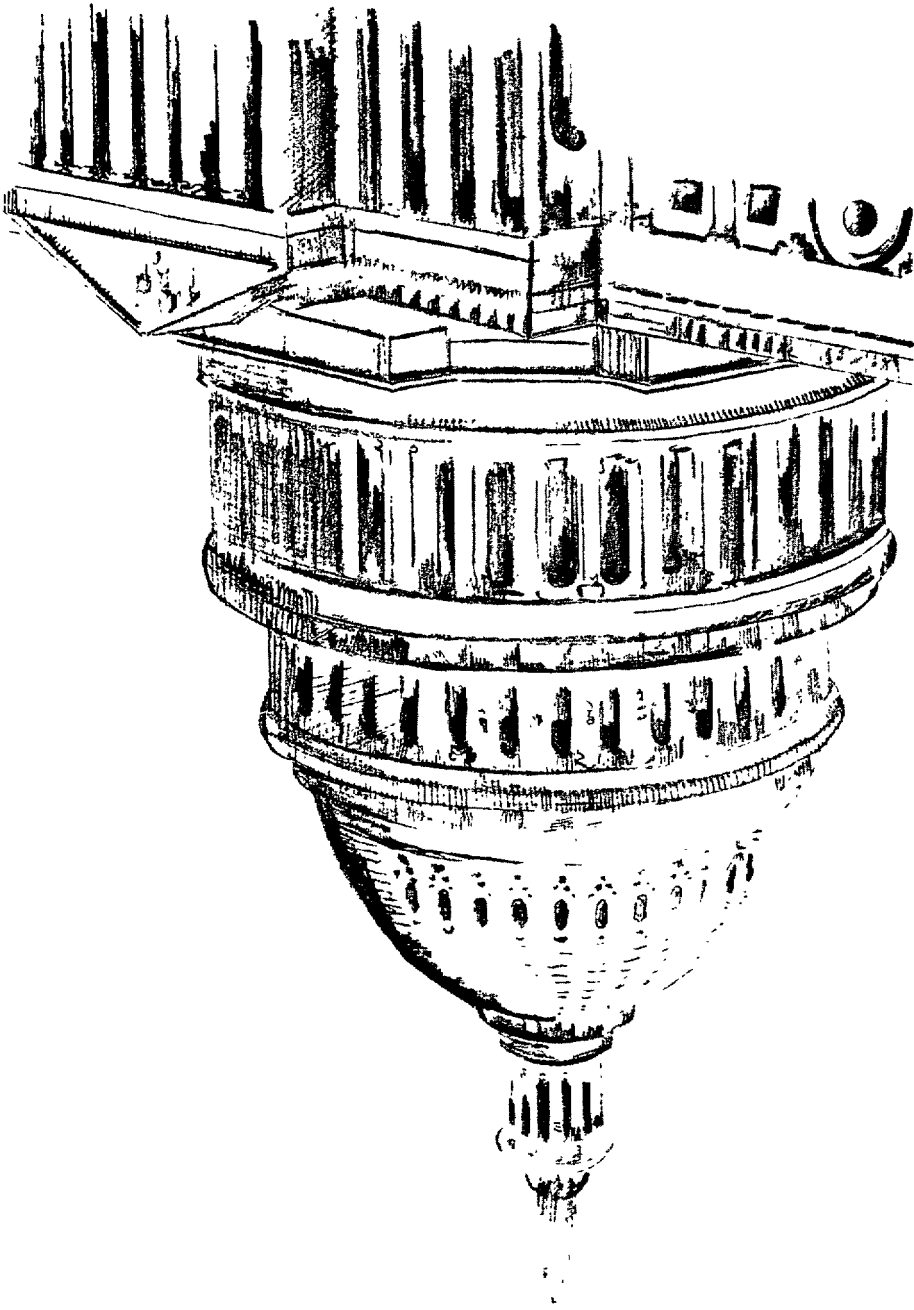
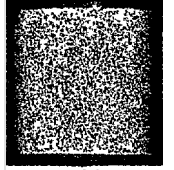
January 1975



***U.S. GENERAL ACCOUNTING OFFICE
OFFICE OF THE GENERAL COUNSEL***



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LEGISLATIVE RESEARCH GUIDE

Use of GAO Legislative Histories

The legislative history files of the GAO are unique in two ways. They cover most of the public laws enacted since 1921 and they contain in one discrete unit all the material which normally is represented as legislative history.

Starting from the back of the file, the first thing appearing filed is the bill as introduced together with introductory remarks, if any. Subsequently--and in order of occurrence--one will find committee reports, floor debates after the bill is reported, votes taken on the bill, the bill's submission to the other body, the bill as reported to the other body, committee reports on action taken on the bill as reported, amendments if any, votes on amendments and on the bill as amended, conference action if any, final votes on passage after conference, and Presidential action. If printed, hearings will appear in the file or--if too bulky for the file--will be housed in separate envelopes. Thus, the legislative history files of GAO are arranged to present a bill from introduction to Presidential approval with little if any need to do additional legislative history research.



Legislative History Research...

In dealing with language in an act for which no GAO legislative history is available it will be necessary to do the search from original documents.

Assume for example that for consideration is the question of whether the Alaska Native Fund established under the Alaska Native Claims Settlement Act is an Indian Tribal Trust Fund for the purpose of interest payments under 25 U.S.C. 161a and for investment purposes under 25 U.S.C. 162a. It will soon become apparent that at issue are two basic questions. Specifically, whether (1) the Alaska Native Fund is an Indian Tribal Trust Fund and (2) whether the Alaska Native Regional Corporations are Indian Tribes within the meaning of the law.

The following exercise will point to the steps that will need to be taken in order to see if the legislative history of the Alaska Native Claims Settlement Act affords a means to resolve these legal issues.

In doing any legislative history research it is essential to ascertain the derivative source of the enactment, i.e., one must know what bill or joint resolution was enacted. Assuming that it is already known that the Alaska Native Claims Settlement Act is found in 43 U.S.C. 1601 et. seq. (Supp. II), the first step is to identify the appropriate Public Law number and its location in the Statutes at Large. After the language of 43 U.S.C. 1601 the following citation appears:

“(Public Law 92-203, §2, December 18, 1971, 85 Stat. 688).”

...From Original Source Documents —

From this it is known that section 1601 of title 43 of the United States Code comes from section 2 of Public Law 92-203, which was approved on December 18, 1971, and appears at 85 Stat. 688. In order to learn the derivative source of Public Law 92-203 turn to page 688 of volume 85 of the Statutes at Large. Here it will be learned that before enactment Public Law 92-203 was H.R. 10367, 92d Congress. As illustrated below, this H.R. number appears to the left and before the enactment clause of Public Law 92-203.

688	PUBLIC LAW 92-203	DEC. 18, 1971	85 STAT
	Public Law 92-203		
December 18, 1971 (H. R. 10367)		AN ACT	
	To provide for the settlement of certain land claims of Alaska Natives, and for other purposes		
Alaska Native Claims Settlement Act		<i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:</i> That this Act may be cited as the "Alaska Native Claims Settlement Act".	
		DECLARATION OF POLICY	
		SEC. 2. Congress finds and declares that—	
		(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;	
		(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;	

After identifying H.R. 10367, 92d Congress as the derivative source, this key information is used to locate the bulk of the material which collectively makes up the legislative history of Public Law 92-203. First look to the bound volumes of the Congressional Record for the 1st session of the 92d Congress to find that volume and part which houses the histories of bills and resolutions. The histories for the 1st session of the 92d Congress will be found in volume 117, part 37, of the Congressional Record. Having located this volume turn to that portion of part 37 of volume 117 that contains the history of House bills. The histories are presented in numerical order and for H.R. 10367 there appears the following:

10336-10384

HR 10336—To provide for the establishment of projects for the dental health of children to increase the number of dental auxiliaries to increase the availability of dental care through efficient use of dental personnel and for other purposes. Mr. Heitsooki, Committee on Ways and Means, 29199

HR 10337—For the relief of Mr. Giovanni Chiarello and Mrs. Morana Chiarello. Mr. Annunzio, Committee on the Judiciary, 29199

HR 10338—For the relief of Zena Alicia Estela. Mr. Annunzio, Committee on the Judiciary, 29199

HR 10339—For the relief of Marilyn Ruth Bennett. Mr. Badillo, Committee on the Judiciary, 29199

HOUSE BILLS

HR 10366—To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes. Mr. Biaggi, Mr. Hauler, and Mr. Rull, Committee on the Judiciary, 29551

HR 10369—To amend title II of the Social Security Act to increase to \$750 in all cases the amount of the lump-sum death payment thereunder. Mr. Biaggi and Mr. Mikva, Committee on Ways and Means, 29551

HR 10370—To amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged.

payer for the purpose of funding the higher education of his dependent. Mr. Burke of Massachusetts, Mr. Cooper, Mr. Vander Jagt, and Mr. Kemp, Committee on Ways and Means, 29552

HR 10378—To amend the Tariff Schedules of the United States to provide for a partial exemption from duty for articles previously reported from the United States, disposed in part of fabricated commodities the products of the United States when returned after having been exported without having been altered in kind or improved in condition while in the possession of the United States. Mr. Biaggi, Mr. Hauler, and Mr. Rull, Committee on the Judiciary, 29552

HR 10379—To amend the Tariff Schedules of the United States to provide for a partial exemption from duty for articles pre-

HR 10367—To provide for the settlement of certain land claims of Alaska Natives, and for other purposes. Mr. Aspinall, Mr. Haley, Mr. Edmondson, Mr. Tavel, Mr. Meeds, Mr. Begich, Mrs. Mink, Mr. Steiger of Arizona, Mr. Kyl, Mr. Camp, Mr. Terry, Mr. Abourezk, Mr. Sebelius, and Mr. Stephens, Committee on Interior and Insular Affairs, 29551—Reported with amendment (H Rept. No. 92-523), 33751—Made special order (H. Res. 645), 36266—Debated, 36851, 37063—Amended and passed House, 37098—Referred to Committee on Interior and Insular Affairs, 37265—Amended and passed Senate (in lieu of S. 351), 38472—Senate insisted on its amendments and asked for a conference, 38472—Conference appointed, 38472—House disagreed to Senate amendment and agreed to a conference, Conference appointed, 39083—Conference report (H Rept. No. 92-748) submitted in House and agreed to, 46583, 46780—Conference report submitted in Senate and agreed to, 46958, 46965—Examined and signed, 47463, 47585—Presented to the President, 47693—Approved (Public Law 92-203), 47695

regard to the 3rd and 4th floors. Mr. Biaggi and Mr. Mikva, Committee on Ways and Means, 29551

HR 10375—To amend titles II and XVIII of the Social Security Act to include qualified drugs requiring a physician's prescription or certification and approved by a Formulary Committee, among the items and services covered under the hospital insurance program. Mr. Biaggi, Mr. Mikva, and Mr. O'Neill, Committee on Ways and Means, 29551

HR 10376—To amend title 39, United States Code, as enacted by the Postal Reorganization Act, to facilitate direct communication between officers and employees of the U.S. Postal Service and Members of Congress, and for other purposes. Mr. Boland, Committee on Post Office and Civil Service, 29552

HR 10377—To amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the tax-

individuals and firms in the District of Columbia to obtain the benefits of certain organization, and to make certain changes in the District of Columbia Income and Franchise Tax Act. Mr. Fuqua, Mr. Hungate, Mr. Simpson, Mr. Brophy of Virginia, and Mr. S. of New York, Committee on the District of Columbia, 29552—Reported, H. Rept. 92-508, 33176—Passed House, 35770—Referred to Committee on the District of Columbia, 35957—Reported, S. Rept. 92-419, 43190—Passed Senate, 43930—Examined and signed, 44373, 44544—Presented to the President, 45004—Approved (Public Law 92-180), 47149

HR 10384—To release certain restrictions on the acquisition of lands for recreational, development and for the protection of natural resources and fish and wildlife areas administered by the Secretary of the Interior. Mr. Garmatz and Mr. Dingell, Committee on Merchant Marine and Fisheries, 29552—Reported with amendment, H. Rept. 92-706, 45004—Rates suspended, Amended and passed House, title amended, 44961—Referred to Committee on Commerce, 45209



As can be seen, references are made to all sponsors, Committee reports, pages where debates appear on the measure and Presidential action. Armed with this information all source references to the legislative history on H.R. 10367 except for hearings held by Committees have been identified. Usually Committee reports will make reference to any hearings that were held on the measure. However, there are additional reference works that can be used to locate Committee hearings.

The most useful work for this purpose is the bound volumes of the Cumulation Index of Congressional Committee Hearings which contains complete reference to hearings indexed by Congress, subject, Committees and bill number. The most current volume available in GAO at the time of this writing only goes through the 91st Congress so it is necessary to rely on the Legislative Calendar for the 92d and subsequent Congresses.

From the information obtained from the history of bills and resolutions it is known that H.R. 10367 was the work of House Committee on Interior and Insular Affairs. The Legislative Calendar for the 92d Congress of the Committee on Interior and Insular Affairs will be the source reference for any hearings held on that measure. This Calendar lists bills considered by the Committee in numerical order and on page 129 the following is presented:

H.R. 10330 Mr. ABOUREZK**IND**

To provide for the distribution of judgment funds to the Cheyenne River Sioux Tribe. (Doc. 114).

Aug. 3, 1971.—Introduced.

Nov. 30, 1971.—Report requested from Interior.

June 1, 1972.—Interior—Favorable, if amended as suggested.

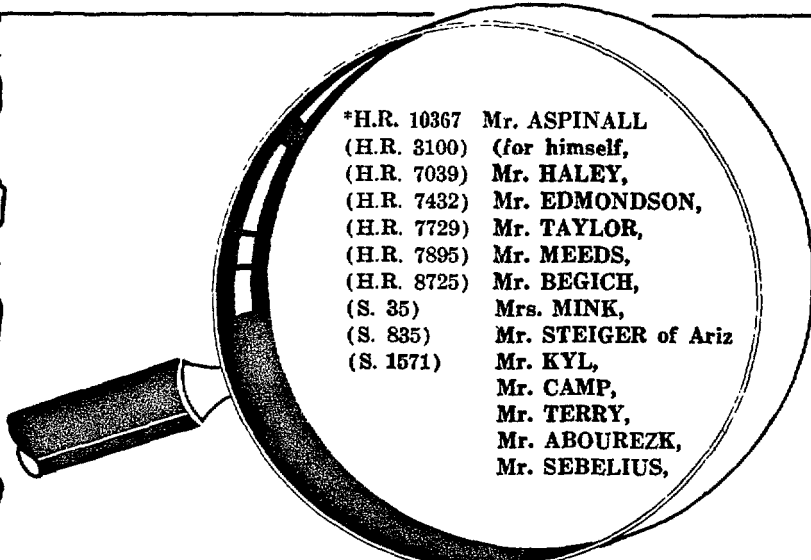
Aug. 15, 1972.—Subcommittee reported to full committee, amended.

Aug. 17, 1972.—Full committee ordered reported to House, amended.

Sept. 5, 1972.—Reported to House, amended.....

H. Rept. 92-1373

Sept. 19, 1972.—Passed House.



*H.R. 10367 Mr. ASPINALL
 (H.R. 3100) (for himself,
 (H.R. 7039) Mr. HALEY,
 (H.R. 7432) Mr. EDMONDSON,
 (H.R. 7729) Mr. TAYLOR,
 (H.R. 7895) Mr. MEEDS,
 (H.R. 8725) Mr. BEGICH,
 (S. 35) Mrs. MINK,
 (S. 835) Mr. STEIGER of Ariz
 (S. 1571) Mr. KYL,
 Mr. CAMP,
 Mr. TERRY,
 Mr. ABOUREZK,
 Mr. SEBELIUS,

To provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

*Printed hearings.

88-051-93—House Interior and Insular Affairs Cal—9

From this information it is known that hearings were held on H.R. 10367, 92d Congress and, more important, that those hearings were printed.

The list of publications in the Calendar also has a subject list of hearings which, as illustrated below, lists printed hearings on the Alaska Native Land Claims.

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PUBLICATIONS OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS

NINETY-SECOND CONGRESS

HEARINGS:

- Serial No. 92-1— "Meeting with Secretary of the Interior Morton."
- Serial No. 92-2— "Interior Department Water and Power Orientation Briefing."
- Serial No. 92-3— "Policies, Programs, and Activities of the National Park Service and the Bureau of Outdoor Recreation."
- Serial No. 92-4— "Lincoln Home National Historic Site" (H.R. 3117 and related bills.)
- Serial No. 92-5— "Protection of Wild Horses on Public Lands" (H.R. 795 and related bills).
- Serial No. 92-6— "Territories Orientation Briefing."
- Serial No. 92-7— "Non-Voting Delegates—Guam and Virgin Islands— 1971." (H.R. 3237 and related bills).
- Serial No. 92-8— "Amend Water Resources Planning Act" (H.R. 6359).
- Serial No. 92-9— "Saline Water Conversion Program" (H.R. 5333, H.R. 5334).
- ★ Serial No. 92-10— "Alaska Native Land Claims" (H.R. 3100, H.R. 7039, H.R. 7432).
- Serial No. 92-11— "Proposed Amendments to the Land and Water Conservation Fund Act" (H.R. 1131 et al., H.R. 4705 et al, H.R. 6730 et al.).

To obtain these hearings all that is needed is to identify them by Congress, session and bill number. Thus, request of the Legislative Digest Section should be made for the hearings held on H.R. 10367, 92d Congress, 1st session. The same procedure should be followed to identify hearings held on the Senate side. Specifically, the Legislative Calendar of the Senate Committee on Interior for the 92d Congress should be used to identify hearings held on H.R. 10367 and related bills.

With respect to the use of these calendars, they take the form chosen by the Committee chairmen and some are easier to use than others. Compare for example the Legislative Calendar of the House Committee on Interior and Insular Affairs with those of the House Committee on Agriculture and the Senate Committee on Labor and Public Welfare. Note however, that the same essential information is available in all of them.

9




THE COMPONENTS OF LEGISLATIVE HISTORIES AND THEIR USE

In the broadest sense everything that happens to a bill from introduction to enactment can be called legislative history. Mr. Chief Justice Marshall in U.S. v. Fisher, 2 Cranch 358 (U.S. 1805) at page 386 stated that when the intent is plain nothing is left to construction but that: "Where the mind labours to discover the design of the legislature, it seizes everything from which aid can be derived * * *."

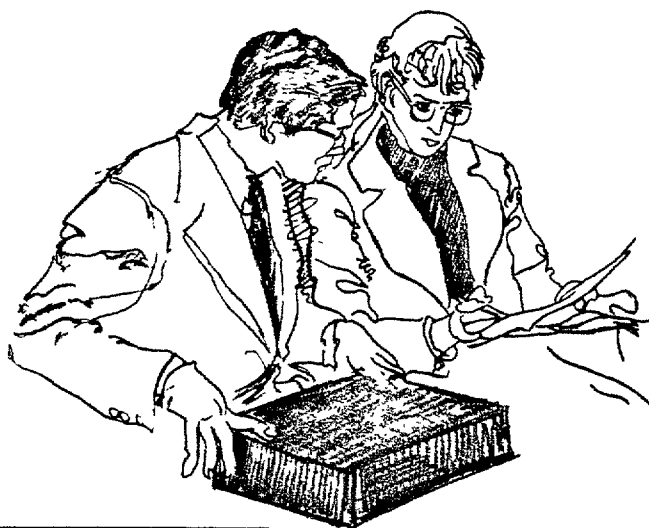
While aid can be derived from a number of places, for the most part the decisive legislative history is made by Committee action in the Congress. Commentators on the Congress have characterized the Committee system as Congress at work and it is just as fair to call the Committees of Congress the fountainheads of legislative histories.

It serves useful purpose to briefly outline the work of Committees on legislative measures to introduce the Committee produced components of legislative history. When a bill is introduced in Congress it is assigned to a Committee for consideration. If the Committee is to take action on the bill it will normally hold hearings and these hearings are usually printed. If the Committee decides that the information obtained at the hearings justifies consideration of the bill by the full membership, the bill will be reported to the parent body and will ordinarily be accompanied by a Committee report.

This report will contain the Committee's recommendations on the measure. In case of disagreement during Committee consideration, dissenting members will file a separate minority report or present their views in the back of the Committee report. At this step the bill will be "reported" and the Chairman and members of the reporting Committee will play the most important legislative role during floor consideration of the measure.

If the bill passes the originating body it will be sent to the other body where it will again be sent to a Committee, hearings may or may not be held, a Committee report will probably be issued and the matter will be debated with the members of the reporting Committee taking leading roles.

If the measures passed by the House and Senate are not identical, a conference will be set up with conferees selected from the two Houses. Ordinarily, the conferees will be selected from the Members of the House and Senate who served on the Committees that held hearings, considered, and reported the measure. The conference committee will try to iron out the differences between the two measures and if an agreement is reached will issue a conference report consolidating the two bills into a single bill which will then be voted up or down by the two Houses.



The foregoing discussion has presented the work product of the Committee system. Specifically, that system develops:

- (1) Committee hearings
- (2) Committee reports
- (3) Floor managers to shepherd the bill through debate, and,
- (4) Conference reports.

If the legislative history on a measure is to be found it most probably will come from one or more of these four work products of the Committee system.

Committee Reports

Senate and House Committee reports contain the findings of fact, the analysis and the recommendations of the Committee on the pending measure. With the possible exception of conference reports, which will be discussed later, the most fruitful part of the legislative history is to be found in the section-by-section analysis that usually appears in the Committee report. This analysis contains the Committee's itemized explanation of the language presented for floor debate.

If legislative history is not found in the section-by-section analysis of the Committee report then at least a scan reading of the rest of the report should be made for it is accepted that Committee reports are valuable sources for legislative history. See Lapina v. Williams, 232 U.S. 78, 90 (1914); U.S. v. St. Paul M. and M. Railway Co., 247 U.S. 310, 318 (1918). If no answer is found in the Committee report then it is necessary to seek legislative history in the floor debates.

Floor Debates

A word of caution should be given about the use of floor debates. The greatest reliance may be placed in the words spoken by the members of the Committee which reported the measure to the floor or the member who sponsored the bill. It is thus necessary to identify the source as it is generally accepted that the Committee spokesmen provide the most acceptable legislative history. See NLRB v. Thompson Products, 141 F.2d 794, 798 (1944); Ex Parte Kawato 317 U.S. 69, 77 (1942); Imhoff-Berg Silk Dyeing Co. v. U.S. 43 F.2d 836, 837-838 (1930); Duplex Company v. Deering, 254 U.S. 443, 474-475 (1921); and U.S. v. Wrightwood, 315 U.S. 110, 125 (1941).

Hearings

It may be that it is necessary to resort to hearings held on a bill. Committee hearings contain the transcript of testimony given by witnesses to the Committee and in using hearings as legislative history it should be recognized that witnesses are spokesmen for points of view that may or may not have been accepted by the Congress when it got around to legislating. A single statement by one witness, regardless of his importance or competence should not be solely relied upon as basis for congressional action. See Pacific Insurance Co. v. U.S. 188 F.2d 571 (1951).



Conference Reports

Conference reports can be the most definitive legislative history that can be found on a measure.

If a bill passes the House and Senate in identical form then no further action is required by the House or Senate. If however they differ in any way the differences must be reconciled. If the differences are minor, they usually can be taken care of without a conference by agreement in floor debate. If the differences are substantial they will have to go to conference if there is to be a law enacted. Conferences can only be held with the approval of both Houses and will be attended by members from the majority and minority parties of both Houses. In most cases the conferees are selected from the membership of the Committee who reported the measure to the House and Senate.

All conferences are held in Executive session, no minutes are taken, and votes on issues are not recorded. As a result, the only record of the conference is that contained in the conference report. This report explains the action taken and the recommendations of the conferees. A conference report cannot be amended and must be voted up or down by the House and Senate. It can be recommitted to the conference by either the House or Senate if approval has been denied by both bodies and it can be recommitted with or without instruction. If however, one House has agreed to a report no vote of recommitment may be taken because approval by the House or Senate of the work of a conference discharges the approving bodies conferees.

U.S. CODE CONGRESSIONAL BILLS NEWS	U.S. CODE CONGRESSIONAL NEWS	U.S. CODE ADMINISTRATIVE NEWS	U.S. CODE ADMINISTRATIVE NEWS	U.S. CODE ADMINISTRATIVE NEWS
3 PAGES 1-26	3 PAGES 27-30	4 PAGES 1-331	4 PAGES 332	2 PAGES 409-7
2 ND CONGRESS SECOND	2 ND CONGRESS SECOND	2 ND CONGRESS THIRD	2 ND CONGRESS THIRD	2 ND CONGRESS THIRD
HISTORY	HISTORY	LAWS	LAWS	MESSAGES

U.S. CODE ADMINISTRATIVE NEWS	U.S. CODE ADMINISTRATIVE NEWS	U.S. CODE ADMINISTRATIVE NEWS	U.S. CODE ADMINISTRATIVE NEWS
4 PAGES 1-74	4 PAGES 75-9	4 PAGES 101	1 75-9
1 ST CONGRESS FIRST	1 ST CONGRESS FIRST	1 ST CONGRESS FIRST	1 ST CONGRESS FIRST
LAWS	LAWS	MESSAGES	MESSAGES

The importances of conference reports as legislative history is apparent. Ordinarily the matters at issue in conference are fundamental and, in no case, can a conference report be amended. Thus the conference report and the explanation furnished by the conferees on language framed in conference generally takes precedence over any action theretofore taken on the matter at issue by either House at any step of the legislative process. It follows that if the issue at hand involves language which was formulated in conference, and the conference report was approved by both Houses, the only legislative history that can control is that contained in the conference report and in the statements made by the conferees in explanation of the position taken in the conference report. Where of course the language adopted by the conference is obviously based on language contained in a House or Senate bill, then supportive use can be made of the legislative history that had been made in the body that developed the language from which the conference language was patterned.

U.S. Code Congressional and Administrative News

There is one commercial source of legislative histories in our Law Library. Portions of selected legislative histories are contained in the U.S. Code Congressional and Administrative News. We have these source references going back to the 1st session of the 77th Congress. No particular instruction is needed for their use because in the front of each volume there is an adequate explanation.

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