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THE ABC'S OF FEDERAL GOVERNMENT DOCUMENTS

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The *Federal Register* for January 24, 1961, prints side by side Proclamation 3391 signed by Dwight D. Eisenhower and Executive Order 10914 signed by John F. Kennedy.¹ This silent witness to the change of administration is completely devoid of any suggestion of the color, the excitement and the pageantry which accompany such an event. The document contains the bare factual record of the policy decisions it embodies. If it could include pictures and a sound track, everyone would find its use much more enjoyable than it is now. The lawyer can overcome his distaste for the dull appearance of many documents but he often has difficulty in using them because of their indexing methods and because of his unfamiliarity with their indexes. He is accustomed to excellent indexes for the traditional types of law books such as the statutes and particularly the reports of court decisions. The volume of documents alone makes indexing difficult. Detailed indexing for all documents would no doubt make their cost prohibitive. The lawyer is fortunate if there is a commercial publication such as a loose-leaf service which indexes the documents he needs for his field of interest. In some areas there is no such aid available to him. This paper attempts to set out in the most simple terms a record of some of the steps he can take to locate the materials he needs. It is not intended to serve the bibliographer nor to make an exhaustive survey of the field.

The number and variety of documents available to the lawyer will of course vary with the size and type of library to which he has access. If its documentary resources are too limited for his use, he may have to locate a document depository collection. These are libraries which are designated to receive numerous federal government documents. There are at least two in every state, the District of Columbia and Puerto Rico.² Not all of these libraries receive the same documents and none receive all federal documents. Certain documents are issued directly by government departments and are not distributed by the Superintendent of Documents. These libraries may or may not have obtained them from the appropriate department. Other documents are issued for official use only and are not made available for distribution.³ It should

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¹ 26 *FED. REG.* 639 (1961).

² Depository libraries are listed as of September 1, 1960, in the *Monthly Catalog of United States Government Publications* for September 1960, pages 195 to 207. It is customary to list them annually in this publication.

³ The *Monthly Catalog* indicates documents available for sale by the Superin-

be noted that some publications such as the advance sheets to the Decisions of the National Labor Relations Board cannot be obtained by libraries by any kind of regular subscription, but individual numbers may be available to a library on request. The lawyer who uses a depository library will likely have the assistance of a documents' librarian who will give him much valuable aid. He should state his request for documents in specific terms in order to save time.

Oftentimes it is possible to obtain current federal documents from one's Congressman. Another source is the Superintendent of Documents, Government Printing Office, Washington 25, D.C. Orders placed there must be accompanied by payment.

One booklet which is sold by the Superintendent of Documents for \$1.50 should be available to anyone who deals with any branch of the federal government. It is called the *United States Government Organizational Manual* and is published annually. This valuable booklet describes the various agencies, gives their addresses and names of officials, citations to the acts which established them and gives lists of their publications. It also contains organization charts and a key to the alphabetical designations of the agencies.

Another useful source of information is the *Monthly Catalog of United States Government Publications* which is found in almost all libraries. This work lists publications under their respective departments. However, some of the documents it lists may be out of print before it is delivered. Reference to this set has been simplified by the publication of its *Decennial Cumulative Index, 1941-1950*.

If a desired document is out of print, cannot be borrowed, and is not too voluminous, it may be feasible to have a photographic copy made. This process seldom involves any copyright problems. The documents are not copyrighted, but some of them do reproduce copyrighted material with permission of the copyright owner. The proprietor of the copyright does not lose his copyright privileges by reason of that reproduction.⁴

ADMINISTRATIVE REGULATIONS

One type of search not yet routine to all lawyers is the location of administrative rules and regulations. Formerly they were not available in any compiled or systematic matter until the adoption of the Federal Register Act.⁵ Passed in 1936, the Act required their publication in the *Federal Register*. This document is issued daily except Sundays, Mondays and days following official federal holidays. It was intended to

tendent of Documents by an asterisk, those distributed by the issuing office by a single dagger, and those printed for official use and not available for distribution by a double dagger. Some processed or near-print publications are omitted from the Catalog.

⁴ HOWELL, COPYRIGHT LAW 40-41 (2d ed. 1948).

⁵ 44 U.S.C. §301-413 (1958).

include all rules and regulations of federal agencies having "general applicability and legal effect."⁶ However, it was felt that the *Federal Register* did not include all of the information needed by the public, especially that dealing with the procedures of the agencies. Now the *Federal Register* contains notices of proposed changes in rules and information as to the dates when public hearings will be held. It also designates the places where interested persons may come to present arguments for their desired changes. Further requirements for publication were made by the Administrative Procedure Act.⁷

The regulations in force June 1, 1938 were codified in the *Code of Federal Regulations*. This code is arranged in fifty titles somewhat analogous to the titles in the *United States Code*. Several bound supplements were published. A second edition, now current, includes regulations in force December 31, 1948. The second edition is supplemented annually by pocket parts and, when necessary, by replacement volumes. Some titles are supplemented by additional booklets. The set has a separately bound index with pocket supplementation. It contains indexing under departments which makes it difficult to use. One who seeks regulations based on a certain statute will use the parallel table keyed to the *United States Code* which is published at the beginning of Title 2.

The *Federal Register* is arranged by the same fifty titles as the *Code of Federal Regulations*. Its Codification Guide in the front of each issue is a numerical listing of titles and sections amended or added by regulations in the issue. There is a cumulative Codification Guide

⁶ "There shall be published in the Federal Register (1) all Presidential proclamations and Executive orders, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof; (2) such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect; and (3) such documents or classes of documents as may be required so to be published by Act of the Congress; *Provided*, That for the purposes of this Act every document or order which shall prescribe a penalty shall be deemed to have general applicability and legal effect." 70 Stat. 337 (1956), 44 U.S.C. §305(a) (1958).

⁷ 5 U.S.C. §1001-1011 (1958). The pertinent section reads: "Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—(a) Rules.—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and the methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and methods by which its functions are channeled and determined including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published." 60 Stat. 238 (1946), 5 U.S.C. 1002 (1958).

for the current month in the back of each issue. It is reissued with the index once a month and as a separate pamphlet quarterly and annually.

When the researcher has found the proper title and section in the *Code of Federal Regulations*, it is ordinarily a simple matter to bring the regulations up to date. This procedure can be done by checking the pocket supplement to the *Code* and any subsequent Codification Guides in the *Federal Register* under the same title and section numbers. As Messrs. Price and Bitner point out, this system fails when an agency is moved to a different department or bureau leaving its numbers behind.⁸

PRESIDENTIAL DOCUMENTS

Presidential documents include proclamations, executive orders, reorganization plans, administrative orders, certain letters, and memoranda. They are included in the *Federal Register* under Title 3 and are again printed in full as supplementary volumes to Title 3 of the *Code of Federal Regulations*. The first edition of the *Code* stated in reference to executive orders and proclamations: "Although these documents are issued by the President, they are usually prepared and administered by the several Federal agencies and form essential portions of the regulations which they administer."⁹ Most of the presidential documents were not readily available until the publication of the *Federal Register*. The proclamations have been included in the *Statutes at Large* for many years. Reorganization plans are also printed there. An examination of the titles of the early executive orders indicates they were formerly used much less for important governmental matters than they are today. One is tempted to say they dealt mainly with migratory birds. Unfortunately, there are no complete files or lists of the early orders.¹⁰ The older libraries such as the Columbia University Law Library have slip copies or separate copies of many of them.

One of the difficulties in using proclamations and executive orders is that there is no clear-cut distinction between them.¹¹

Since the publication of the *Code of Federal Regulations* it is possible to determine whether or not presidential documents have been amended or revoked. For example, executive orders can be brought up to date by the use of tables found in the supplements to Title 3 of the *Code*. They are called table 4; in the earlier supplements they are referred to as table 7. The supplements to Title 3 which had appeared as separate volumes from 1943 to 1953 were reissued in two bound volumes, one for the years 1943 to 1948 and the other for 1949 to 1953.

⁸ PRICE & BITNER, *EFFECTIVE LEGAL RESEARCH* 137-8 (1953). This book is an excellent source for detailed information regarding documents as well as other legal publications.

⁹ 3 C.F.R. 49 (1939).

¹⁰ PRICE & BITNER 148 (1953).

¹¹ *Id.* at 147.

Unfortunately, the tables of amendments were not compiled when this was done, although the subject indexes were compiled. The researcher who has a reference to an order issued in 1945 and who wishes to obtain a record of any changes in its scope, looks at the 1943-1948 volume at pages 1116 (1945), 1132 (1946), 1147 (1947), and 1157 (1948). The search continues in the 1949-1953 volume at pages 1058 (1949), 1073 (1950), 1090 (1951), 1105 (1952), and 1118 (1953). The researcher is then ready to check the 1954 and later supplements to Title 3 where he will find table 4 near the front of each volume. The next step is to locate any *Federal Register* Codification Guides published since the last annual supplement and to look for the executive order number under Title 3.

Locating amended presidential documents for the years 1936 to 1944 is even more awkward than the process just outlined. Now it is necessary to combine information from tables in old *Federal Registers* with that from supplements to the first edition of the *Code*. The tables in the *Federal Register*, called Related Documents, cover the period during which the *Register* was published in 1936, all of 1937, and part of 1938.¹² The period from June 6, 1938 to May 27, 1943 is included in a table in the Cumulative Supplement¹³ while the remaining part of 1943 is covered by the 1943 Supplement.¹⁴ The year 1944 may be checked by the use of the Codification Guide to the 1944 *Federal Register*.¹⁵

It is wearisome to read all of the details and is time-consuming to resort to so many indexes. Surely, the commercial publishers will eventually remedy the situation.

One other source for the presidential documents may well be mentioned because of its widespread distribution. That is the *United States Code Congressional and Administrative News*. This publication omits some of the miscellaneous documents found in the official publications and when it began publication in 1939, it omitted some of the proclamations and executive orders.

LEGISLATIVE HISTORIES

There is a growing interest in methods of following the progress of a bill in the Congress or in obtaining a record of the legislative history of legislation which has been enacted.¹⁶ Compiled legislative histories have been printed for a few important statutes.¹⁷ Microcard

¹² 1 FED. REG. 2301-03 (1936); 2 FED. REG. 3001-04 (1937); 3 FED. REG. 1093-95 (1938).

¹³ 1-3 C.F.R. (Supp. 1943, at 1339-87).

¹⁴ 1-31 C.F.R. 1-3 (1944).

¹⁵ 9 FED. REG. (1944 Annual Index at 199-200).

¹⁶ Finley, *Crystal Gazing: The Problem of Legislative History*, 45 A.B.A.J. 1281 (1959).

¹⁷ SEIDMAN, *LEGISLATIVE HISTORY OF FEDERAL INCOME TAX LAWS, 1938-1861* (1938); SEIDMAN, *LEGISLATIVE HISTORY OF FEDERAL INCOME & EXCESS PROFITS*

editions of histories for selected federal laws have been issued since the Eighty-second Congress.¹⁸ Some libraries collect the documents which form legislative histories which are interesting to read. A bibliography has been published which lists such histories in the Washington, D.C. area.¹⁹ For the most part the reader must assemble his own record from various "bits and pieces" which indicate the influences important in forming a bill or law. The amount of detail desired will vary with each problem as will the completeness of the record which has been preserved. It will be easy to find the debates and conference reports since they are printed in the *Congressional Record*. It may not be easy to locate the bill in its various forms unless it is current. Reports will be available in depository libraries in the Congressional serial set. This set does not include bills, hearings, nor committee prints. The libraries may have acquired them separately and usually do acquire a large number of hearings. It may require some study or some luck or both to find such sources of information as preliminary studies made before the introduction of any bills (often called Documents and committee prints.)²⁰ There may be other aids to the interpretation of a bill in such forms as recommendations contained in annual reports of various departments, statements made before appropriation committees and announcements in press releases.

The various indexes to Congressional activity are keyed to the bill number and of course to the number of the Congress. The number of a bill which has been enacted may be found in several ways. The slip law (a separate printing of an individual law) includes the bill number on the second line just under the Public Law number. It may be found in the *Statutes at Large* in the margin opposite the title of the act. The *United States Code Congressional and Administrative News* prints the bill number just under the Public Law number in the volume containing the text of the law. The *United States Law Week*, which prints selected statutes, does the same. The *Digest of Public General Bills*²¹ lists its digests numerically by bill number and contains a topic index. The *Digest* is probably the best source of information for the contents of bills when the bills themselves cannot be obtained. It is one index which reveals the numbers of pending bills or older bills which have failed to be enacted. However, the *Digest* lacks an index to names of Congressmen.

TAX LAWS, 1953-1939, (1954); LEGISLATIVE HISTORY OF THE NATIONAL LABOR RELATIONS ACT, 1935; LEGISLATIVE HISTORY OF THE LABOR MANAGEMENT RELATIONS ACT, 1947; LEGISLATIVE HISTORY OF THE LABOR-MANAGEMENT REPORTING & DISCLOSURE ACT OF 1959.

¹⁸ Published by Matthew Bender & Co., Inc., 443 Fourth Ave., New York 16, N.Y.

¹⁹ LAW LIBRARIANS' SOCIETY OF WASHINGTON, D.C. UNION LIST OF LEGISLATIVE HISTORIES (1950); (Supp. 1953) (1954).

²⁰ Surrency, panelist at American Association of Law Libraries Annual Meeting, 53 L. LIB. J. 329-30 (1960).

²¹ Published by the Library of Congress Legislative Reference Service.

The *Congressional Record* index contains a record under names of Congressmen and an index under topics of the bills. It includes indexing of private bills. Bills are listed numerically in a separate section called History of Bills and Resolutions.

The *Congressional Index* published by the Commerce Clearing House in loose-leaf form does not include private bills but is in all other respects an excellent index. This service is kept current by weekly supplements. There is an index by names of Congressmen and one by topic or subject. Each may be in two or three parts because the publishers do not reprint the entire index section each week to incorporate the latest entries. It is best to check the table of contents at the beginning of each section to determine the number of parts. The table of contents to the index by authors in the 1959-60 *Index* refers to:²²

Latest Additions to Index by Authors	Page 903
Current Index by Authors	1003
Index by Authors	1101

indicating that there are three sections to that part of the index. There is a numerical list of Senate bills and another of House bills. Each list gives the names of the authors (members who introduced the bills), dates of introduction and names of committees to which they were referred. There are also numerical lists called Senate Status Table and House Status Table which indicate any activity on each bill. This section is the heart of the Index. A bill not listed here has remained in committee. If bills are reported out of committee, the report numbers are listed. Dates of hearings are shown, and if the hearings are printed, this fact is indicated by the date hearings being available. The nature of any action on the floor of either House is mentioned, and the dates are included so that the researcher will know which issue of the *Congressional Record* printed the discussion. The final section of the Status Table shows the legislation history of bills approved or vetoed.

The section immediately following the Status Table for the Senate and that for the House is very helpful. It lists special studies and reports not yet identified by bill number.²³

The lists of names of members, officers, and committee members are also useful.

Congressional action does not always result in bills which are easy to index. The Index to Enactments by Subject in the *Congressional Index* seems more effective than the Subject Index since it points out unexpected assortments of laws. For example, the law on Real Estate Investment Trusts is included in Public Law 86-779 approved Septem-

²² 1959-1960 CONGRESSIONAL INDEX 901.

²³ *Id.* at 3751, 5851.

ber 14, 1960 which bears the title "An Act to Amend Section 5701 of the Internal Revenue Code of 1954 with Respect to the Excise Tax upon Cigars, and for Other Purposes." The Index to Enactments refers to it under Income Tax, subdivision Real Property and to another part of the Act under Taxes and Taxation.²⁴ The Subject Index does not seem to include these two references. This fact only proves that the indexing is done again for bills which become laws. No index is perfect and it is doubtful if any index of bills can give all of the details needed for legislative histories. Changes in bill numbers are troublesome. There are naturally changes in bill numbers if a measure is considered in two different Congresses because bills which fail of enactment die at the end of a Congress. There are also changes within the same Congress.

Public Law 86-779 will serve again as an example of problems likely to be met. Its number before passage was H. R. 10960. One checking its legislative history either in the index to the *Congressional Record*²⁵ or the *Congressional Index*²⁶ will find references to debates, a House Report, a Senate Report, and a Conference Report. Upon examining them, he will find that they deal mostly with the excise tax on cigars. This information is disappointing if the search concerns real estate investment trusts. The Conference Report gives the key to the situation. Its statement regarding the real estate section reads: "The substance of this amendment is the same as the substance of H. R. 12559, which passed the House of Representatives on June 29, 1960."²⁷ The legislative history of H. R. 12559 lists House Report 2020²⁸ where the reader finally obtains an explanation of the basis for the part of Public Law 86-779 which has to do with real estate investment trusts.

Luck will play a role in the search of Public Law 86-779. There is a committee print of the House Committee on Ways and Means called *Tax Revision Compendium*.²⁹ The reader may have seen some reference to it in his study of the legislative history of one of the House bills mentioned; he may have known about it from his general reading, or from the *Monthly Catalog*, or he may have been informed about it from the section in the *Congressional Index* previously mentioned which lists committee meetings on subjects not yet identified by bill number. Under the House Standing Committee Meetings, Ways and Means Committee, appears the notation: "On November 16, 1959, committee held hearings on ideas and suggestions submitted to it on the broad subject of revision of the federal income tax structure.—Hear-

²⁴ *Id.* at 6313, 6321.

²⁵ 15 CONGRESSIONAL RECORD INDEX 114, (Aug. 22-Sept. 21, 1960).

²⁶ 1959-1960 CONGRESSIONAL INDEX 5510.

²⁷ 106 CONG. REC. 17179 (Aug. 30, 1960) (unbound ed.).

²⁸ 13 CONGRESSIONAL RECORD INDEX 131, (June 20-July 15, 1960); 1959-1960 CONGRESSIONAL INDEX 5629.

²⁹ U.S. CONGRESS. HOUSE. COMMITTEE ON WAYS & MEANS. TAX REVISION COMPENDIUM. (1959).

ings available January 25, 1960."³⁰ The *Compendium* quotes testimony on the subject of real estate investment trusts and mentions three more bills on the matter which were pending before the Committee when the testimony was presented.³¹ Their histories may be consulted in the same manner described above.

The United States Code Congressional and Administrative News should be mentioned for its coverage of legislative histories. It cannot substitute for a large document collection but is often valuable in that it sets out the main parts of the legislative histories of the more important enactments. It contains Public Law 86-779,³² the Senate Report,³³ and the Conference Report³⁴ which accompanied H. R. 10960. The Conference Report would of course lead one to the history of H. R. 12559³⁵ but the search cannot be pursued in this series because that bill was not enacted.

CONCLUSION

A number of useful books and other publications have been mentioned. Several others are noteworthy for their value in describing documents or in explaining governmental activities which result in the publication of documents. The pamphlet by Zinn, *How Our Laws Are Made*,³⁶ is both interesting and informative. Another readable account of congressional action is Riddick, *The United States Congress Organization and Procedure*.³⁷ The definitive work on this subject is *Hinds' Precedents*.³⁸

The field of federal documents is surveyed in Schmeckebier, *Government Publications and Their Use*.³⁹ The book was out of print for some time until a revision appeared this year. It is most fortunate for the readers of documents that it has again become available. The book will take its place with the *United States Government Organization Manual* on the desk of any person who seeks to understand the publications of the federal departments and agencies.

³⁰ 1959-1960 CONGRESSIONAL INDEX 5862.

³¹ 3 TAX REVISION COMPENDIUM 1697 (1959).

³² U.S. CODE CONG. & AD. NEWS 1388 (1960).

³³ *Id.* at 3763.

³⁴ *Id.* at 3765.

³⁵ *Id.* at 3769.

³⁶ Reprinted by West Publishing Co. and Edward Thompson Co. from U.S. CODE CONG. & AD. NEWS 2437-74 (1952).

³⁷ Washington, D.C., National Capitol Publishers, Inc., (1949).

³⁸ WASHINGTON, D.C., GOVERNMENT PRINTING OFFICE, (1907-41). (Volumes 6-11 are known as Cannon's Precedents).

³⁹ SCHMECKEBIER & EASTIN, GOVERNMENT PUBLICATIONS AND THEIR USE, (Washington, D.C., The Brookings Institution, 1961).