

LETTERS

WADING THROUGH THE CONGRESSIONAL MORASS

To the Editor:

Caligula felt he satisfied the Romans' need for due process by printing his laws in unreadable type and placing them in inaccessible alcoves. The United States Congress has achieved the same result by burying its legislative material in a massive and cryptically organized set of documents, which are published in quantities far in excess of reason.

Here is a rundown of publications that would have to be used to understand our laws and the official form in which they appear.

1. *Congressional Record*. This is allegedly a verbatim account of Congressional proceedings that appears in a daily edition, and, some months after the session is over, in a set of bound volumes. The pagination in the daily edition differs from that of the bound volumes because members of Congress are permitted to edit their spoken words; they are also allowed to add speeches they never made, insert material ranging from a newspaper column to the eighth-grade poem of a constituent, and, in general, find a record number of ways to achieve a reputation for the *Record* of being printed not for profit and read the same way (as of March 1, 1978, inserted items must be designated as such). The worthless Appendix section of the *Record* is an apt illustration of the tail wagging the dog. The 93rd Congress (1973-1974) set a Guinness record by publishing 68 bound volumes (not counting the equivalent of 20 volumes of Appendix material). In 1975, 50,000 pages were produced at a cost of \$287 per page.

2. *Bills*. Each proposed law may be read into the record several times. Bills are published in loose form with a House or Senate number (S. stands for Senate, H.R. for House). Maintaining the bills on printed 7½ inch by 11 inch sheets is a task for a full-time librarian. However, few libraries keep the sheets for more than the current session. For instance, in 1976 alone, 20,000 bills were introduced in Congress.

3. *House and Senate Reports*. These reports follow hearings held by House or Senate Committees and are the official recommendation to Congress as to passage of the proposed bill. The reports are published haphazardly and interminably and can range from a single page to volumes. Eventually they are published in bound volumes in the *Serial Set* where they may keep company with documents reporting the Proceedings of the 75th National Convention of the Veterans of Foreign Wars, the doings of the Girl and Boy Scouts, a short item titled "Our Flag," and various and sundry other questionable materials designated as depository. Libraries must take the irrelevant with the necessary in order to receive them gratis. Otherwise they can be purchased individually from the Government Printing Office or supplied erratically by congressional representatives. The bound *Serial Set* is so confusing in its makeup that the government publishes a *Numerical List* which divulges what volume of the

Serial Set (now in five numbers) contains the report or document upon which one would like to base legal briefs or lobbying activities. A large number of people are maintained on the government payroll because they have fathomed the intricacies of locating this material. Senator Proxmire, who gives the Golden Fleece Award to the most wasteful projects sponsored by government money, has for years been wallowing in and contributing to the largest and most expensive printing boondoggle of them all. As Will Rogers commented, when a member of Congress criticized a colleague for reprinting one of his columns, "Nothing is so funny as something which is done in all seriousness."

4. *The Law*. Upon passage of a bill, the government publishes slip laws. The official publication of these slip laws in the *Statutes at Large* takes so long that a number of publishers are kept in business by beating the government to the task of printing them. Libraries are forced to purchase their legislative material at astronomical prices (about ten times the amount charged by the Government Printing Office) from West Publishing Co., Congressional Information Services, Commerce Clearing House, Prentice-Hall, and other fast-press publishers, and also to stock the official material whenever it comes out and in whatever form. The ineptitude of Congress has been so fully accepted that the new edition of the *Uniform System of Citation* blandly accepts the material of private publishers as authority for legislative publications.

I have not discussed hearings, releases, regulations (132,000 pages in 1975), major studies of the Legislative Reference Service and Congressional Research Service, the horrendous mass of income tax publications that would make the Tower of Babel seem like a gathering place for intellectuals, and the agency reports that swell the legislative history maw. Justice Frankfurter repeated the quip that one goes to the actual law only when legislative history is not clear; Justice Jackson bemoaned the fact that the materials of legislative history were incomprehensible to the public at large, and accessible only to the few large law offices in urban centers which had researchers available to sift through masses of paper. The assumption that the public has easy access to such documents recalls the comment of Anatole France that the law, in its majestic equality, forbids the rich as well as the poor to sleep under the bridges. Law professors query the value of "manufactured legislative history," whereby snippets are inserted into the record in innocent doses and produced later, lethally, to prove what a law means. By an effective insertion in the record, a clever member of congress can put his or her own personal gloss on a statute without the approval or even the knowledge of his or her colleagues.

What can be done to correct the situation is so simple that even a congressperson might understand. The *Congressional Record* could be published in four parts. Part I: Verbatim Proceedings—The actual words uttered in Congress could be published without any appendix pages. Part II: Bills—Various versions could be published in the same size print as the *Record* itself. They could then be issued weekly and easily related back to the words of those who proposed the bills. Part III: Committee Reports—The reports could be published as needed rather than in a voluminous serial set. Part IV: The Laws.

Subscribers could arrange to receive the entire set, or parts of it. Individual needs could be met by that most pervasive symbol of our society—the

copying machine. The set would not be bound (that expense could be assumed by the subscriber). Legislative history would become vastly more accessible and the government would save mints of money.

Congress has a choice. It can go the democratic route and make its laws readable and accessible, or it can continue on its current course and, like the capricious Caligula, keep the laws from the public.

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