

Chapter 15

Congressional Record

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5 Hinds §§ 6958–7024
8 Cannon §§ 3459–3502
Deschler Ch 5 §§ 15–20
Manual §§ 685–692, 967, 968

§ 1. In General; Control Over the Congressional Record

The present system of reporting the proceedings of the House for the *Congressional Record* is the result of gradual evolution. The first debates, beginning in 1789, were published in condensed form in the *Annals of Congress*. The *Congressional Globe* began in 1833 and continued until 1873, when the *Record* began. 5 Hinds § 6959.

The *Congressional Record* is governed by statutory provisions and rules as to its format and content. 44 USC §§ 901–910. Control over the arrangement and style of the *Record*, including maps, diagrams, and illustrations, is vested in the Joint Committee on Printing. 44 USC §§ 901, 904. 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. Deschler Ch 5 §§ 15.1, 15.2.

The proceedings of the House and the proceedings of the Senate are published in separate portions of the *Congressional Record*, and each House separately controls the content of its portion of the *Record*. 8 Cannon § 2503. The statement of a Senator that would normally appear in the Senate portion of the *Record* may not be inserted in that portion of the *Record* dealing with the proceedings of the House. 87–2, Jan. 16, 1962, p 291.

Both the Joint Committee on Printing and the House have adopted supplemental rules governing publication in the *Congressional Record*. For the text of these rules, see *Manual* § 686. Under rule X clause 1(i), the Committee on House Administration has jurisdiction of matters relating to printing and correction of the *Record*.

A Member is not entitled to inspect the reporter's notes of remarks of others not reflecting on himself nor may he demand that they be read. 5 Hinds §§ 6964, 6967; 8 Cannon § 3460.

§ 2. Matters Printed in the Congressional Record

Generally

The content of the House portion of the *Congressional Record* is governed by statutory law, the House rules, and the customs and practices of the House. In addition, the House often agrees by unanimous consent to permit certain matter to be inserted in the *Record* which would not ordinarily be included. Deschler Ch 5 § 16.

Rule XVII clause 8 and section 901 of title 44 of the United States Code require the *Congressional Record* to be a substantially verbatim account of the proceedings of the House. *Manual* § 967. Clause 8 applies to statements and rulings of the Chair as well as to debate. *Manual* § 968. Because of this requirement, the Speaker will not entertain a unanimous-consent request to give a special-order speech "off the Record." *Manual* § 687.

Additional matters required by statute or House rules to be printed in the *Congressional Record* include:

- The oath of office subscribed to by a Member. 2 USC § 25.
- Referrals to committee under rule XII clause 7. *Manual* § 825.
- The filing of committee reports. *Manual* § 831.
- Reports submitted to Congress pursuant to a statute requiring publication in the *Record*. See, e.g., 2 USC § 1383.
- Amendments to be protected for debate time under the five-minute rule. *Manual* § 987.
- Conference reports and accompanying statements. *Manual* § 1082.
- Messages received from the Senate and President giving notice of bills passed or approved under rule XII clause 1. *Manual* §§ 815, 875.
- Motions to discharge. *Manual* § 892.
- Timely changes in votes. Deschler Ch 5 § 16.14.
- The addition or deletion of the name of a cosponsor. *Manual* § 825.
- Measures introduced "by request." *Manual* § 826.

The *Congressional Record* is for the proceedings of the House and Senate only, and unrelated matters are rigidly excluded. 5 Hinds § 6962. It is not, however, the official record of business, that function being fulfilled by the JOURNAL. See JOURNAL.

As a general principle, the Speaker has no control over the *Congressional Record*. 5 Hinds §§ 6983, 7017. The House, and not the Speaker, determines the extent to which a Member may be allowed to extend his remarks (5 Hinds §§ 6997–7000; 8 Cannon § 3475), whether or not a copy-

righted article shall be printed therein (5 Hinds § 6985), or whether there has been an abuse of the leave to print (5 Hinds § 7012; 8 Cannon § 3474).

The House frequently agrees by unanimous consent to permit insertions of matters of general interest in the *Congressional Record* at the request of Members. Matters that have been inserted in the *Record* under this procedure include:

- Information relative to the installation of voting equipment in the Chamber. 91–2, Nov. 25, 1970, p 39085.
- Records from litigation involving the House. 90–1, Apr. 10, 1967, pp 8729–62.
- The transcript of proceedings of the House in a secret session. 96–1, July 17, 1979, p 19049.
- Summaries of the work of Congress or its committees at adjournment. Deschler Ch 5 § 16.
- Extraneous and tabular matter as the Majority and Minority Leaders consider necessary to establish legislative history concerning the codification of the standing rules. 106–1, Jan. 6, 1999, p ____.

Printing Bills in the Congressional Record

Measures considered in the House are printed in the *Congressional Record* as introduced at the beginning of consideration. If an amended version of the measure is made in order under the special order providing for its consideration, that amended version is printed immediately following the introduced version, unless further amendments are made in order. In that case, the amended version is printed after debate.

Measures considered in the Committee of the Whole are printed in the *Congressional Record* following general debate. The only version of the measure printed is the one made in order as original text for the purpose of amendment by the special order providing for its consideration. The measure is printed as read by the Clerk. For example, if under a special order the measure is considered as read, it is printed in its entirety after general debate. If the measure is read by title, each title is printed at the point the Clerk either reads or designates it. No other version of the measure is printed in the *Record*.

Where the House considers a Senate measure following passage of a similar House bill and amends it with the House-passed text, both the Senate and the House version of the measure are printed in full at that point in the *Congressional Record*, unless the Senate-passed version has been previously printed Senate proceedings.

§ 3. Corrections; Deletions

Under rule XVII clause 8, the substantially verbatim account of remarks made during debate and published in the *Congressional Record* is subject only to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved. Unparliamentary remarks may be deleted only by permission or order of the House. Under rule XVII clause 8(c), this requirement is a standard of official conduct that may be investigated by the Committee on Standards of Official Conduct. *Manual* § 967.

The remarks of a Member, if in order, cannot be stricken from the *Congressional Record* by the House. 5 Hinds § 6974; 8 Cannon § 3498. However, remarks that are out of order may be excluded from the *Record* by House order. Deschler Ch 5 § 19.8. Remarks by an interrupting Member who has not been recognized do not appear in the *Record*. *Manual* §§ 687, 946.

The Committee of the Whole may not authorize deletions from the *Congressional Record*. 5 Hinds § 6986; Deschler Ch 5 § 17.22.

Substantive insertions submitted under leave to “revise and extend” are printed in distinctive type. A speech that has been substantively revised is printed as delivered and then separately printed as revised in distinctive type. *Manual* § 686.

§ 4. Printing Errors

Generally

The House may correct errors in the printing of the *Congressional Record* in order to ensure that the proceedings of the House are accurately recorded. 5 Hinds § 6972. The authority to correct such errors is vested in the House, not the Speaker. 5 Hinds § 7019; Deschler Ch 5 § 18.

The correction of an error in the *Congressional Record* may present a question of the privileges of the House where the integrity of House proceedings is in question. *Manual* §§ 690, 704; Deschler Ch 5 §§ 18.1, 18.2. However, this question may not be raised until the daily edition of the *Record* has appeared (Deschler Ch 5 § 18), and no corrections may be submitted after the permanent edition of the particular volume is published (Deschler Ch 5 § 18.12).

Errors that may be corrected under this procedure are errors in the transcript or printing of the proceedings, not errors of fact made by a Member during debate. The House may not change the *Congressional Record* merely to show what should have been said on the floor. 5 Hinds § 6974; 8 Cannon § 3498; Deschler Ch 5 § 18. A mere typographical error or proper revision

of a Member's remarks does not give rise to a question of privilege. *Manual* § 690.

By Motion or Resolution

A motion or resolution to correct the *Congressional Record*, if constituting a question of privilege, is in order after the approval of the Journal. *Manual* § 690; Deschler Ch 5 § 18.6. A motion or resolution to correct the *Record* also is in order after a unanimous-consent request to that effect has been objected to. Deschler Ch 5 § 18.9. Such motion or resolution is debatable under the hour rule and is subject to a motion to refer to the Committee on Rules. Deschler Ch 5 §§ 18.7–18.10.

§ 5. Extensions of Remarks; Insertions

Generally

In 1968 the Appendix of the *Congressional Record* was replaced by a new heading, "Extensions of Remarks," for the inclusion of material in the *Record* that is extraneous to the proceedings on the floor. A Member may be permitted to extend his remarks in this part of the *Record* so as to insert (1) a speech that was not actually delivered on the floor and (2) extraneous materials related to the subject under discussion, provided the consent of the House is obtained. 5 Hinds §§ 6990–6993; Deschler Ch 5 § 20. This has been a long-standing practice, dating from as early as 1852, when it was the custom to print undelivered speeches in the Appendix to the *Record*. 5 Hinds § 6993. Under the modern practice, such insertions are permitted by unanimous consent and not by privileged motion. Deschler Ch 5 § 20.11.

Permission to include extraneous materials may be granted only by the House. To eliminate the need for daily requests, the House has recently adopted the practice of granting all Members permission to revise and extend their remarks in the "Extensions of Remarks" portion of the *Congressional Record* and include extraneous material (within two *Record*) at the beginning of each Congress. See, e.g., 106–1, Jan. 6, 1999, p _____. The Chairman of the Committee of the Whole may recognize a Member to extend his own remarks, but the Committee of the Whole lacks the power to permit the inclusion of extraneous materials. Deschler Ch 5 § 20.12.

Permission to extend in the body of the *Congressional Record* must be sought by the Member whose remarks are to be inserted, although general permission to extend is sometimes given to all Members. Deschler Ch 5 § 20.

The revised material inserted under permission to extend remarks must be clearly distinguishable, by different typeface, from the substantially ver-

batim account of proceedings. The Speaker has instructed the Official Reporters of Debates to adhere strictly to this requirement. *Manual* § 687.

Timeliness

Permission to extend must be sought at the proper time. Requests to insert made prior to the reading and approval of the Journal will not be entertained. Deschler Ch 5 § 20.4. The Speaker may decline to entertain a request to extend remarks pending a motion to discharge a committee or during the pendency of a motion to suspend the rules. Deschler Ch 5 §§ 20.7, 20.8.

Strict Construction

Authorizations to extend remarks in the *Congressional Record* are strictly construed. Deschler Ch 5 § 20. A Member who has received permission to extend his remarks may not without consent include in such remarks extraneous matter, such as an article or speech by another person. 8 Cannon § 3479; Deschler Ch 5 § 20.23. Similarly, a Member who has obtained the consent of the House to extend remarks only on a specific bill must confine his insertions to the subject matter of the bill and may not include extraneous materials such as letters, editorials, or articles. Deschler Ch 5 § 20.24.

The Chair will decline to entertain a request that a Member be permitted to revise and extend his remarks on a point of order or to insert, immediately following a record vote on an amendment, the results of a previous record vote on the same subject. *Manual* § 628; 96–2, Jan. 30, 1980, p 1319.

Limitations on Insertions

Under leave to extend, a Member may not insert matter that:

- Would be out of order if stated on the House floor. 5 Hinds § 7003; Deschler Ch 5 § 20.
- Fails to comply with statute or the rules of the Joint Committee on Printing as to format (44 USC § 904), cost-estimate requirements for extraneous matter exceeding two *Congressional Record* pages (*Manual* § 692), or subject matter (92–2, May 10, 1972, pp 16661, 16748–16836).
- Fails to conform to the descriptions implicit in the request to which the House consented. 5 Hinds § 7001; 8 Cannon § 3479; Deschler Ch 5 §§ 20.25, 20.26.
- Fails to include the Member’s signature. *Manual* § 686.
- Alters the nature of colloquies as delivered on the floor or changes the meaning of what another Member said. Deschler Ch 5 §§ 19.3, 19.17, 20.3.
- Inserts an entire colloquy between two or more Members that was not actually delivered. *Manual* § 692.

- Includes newspaper articles or other extraneous matter without having obtained authority to do so. *Manual* § 692; 8 Cannon §§ 3480–3483.

Abuse of Leave to Print

Abuse of the leave to print gives rise to a question of privilege. 5 Hinds §§ 7008, 7011; 8 Cannon §§ 3491, 3495. A resolution to investigate the propriety of remarks as constituting such abuse, or for the appointment of a committee to consider the propriety of remarks inserted under leave to print, is privileged but is not in order until the *Congressional Record* appears. 5 Hinds §§ 7020, 7021; 8 Cannon §§ 3493, 3495. An inquiry by the House as to alleged abuse of leave to print does not necessarily entitle the Member implicated to recognition on a question of personal privilege. 5 Hinds § 7012. However, when a committee is appointed to investigate the propriety of a Member's remarks in the *Record*, the Member is afforded an opportunity to be heard. 8 Cannon § 3491.

Expungement

The extension of remarks in the *Congressional Record* by a Member without the permission of the House constitutes grounds for a question of the privilege of the House, and the House may expunge such remarks from the *Record*. Deschler Ch 5 § 20.2. A resolution to expunge remarks alleged to be an abuse of leave to print is privileged and entitles its proponent to recognition to debate it. 8 Cannon §§ 3475, 3479, 3491.

The House may exclude in whole or in part an insertion by a Member under leave to print in the *Congressional Record* that would not have been in order if uttered on the floor. *Manual* § 692.

Form

MEMBER: Mr. Speaker, I ask unanimous consent to extend my remarks on the bill just passed, H.R. _____, by inserting an article pertaining thereto.

MAJORITY LEADER: Mr. Speaker, I ask unanimous consent that all Members speaking on the bill have five legislative days in which to extend remarks in the *Congressional Record*, to be confined to the bill.

MAJORITY LEADER: Mr. Speaker, I ask unanimous consent that for the _____ Congress all Members be permitted to extend their remarks and to include extraneous material within the permitted limit in that section of the *Congressional Record* entitled "Extensions of Remarks."