

February 11, 1974

MEMORANDUM

TO: Noel Kramer
FROM: Gilbert Rothenberg
SUBJECT: A joint resolution as contrasted with an ordinary bill [preliminary research]

In the U.S. Statutes at Large, under "List of Public Laws" there is found either (1) "AN ACT" or (2) "JOINT RESOLUTION." To give you a basis for the proposition that the status of a joint resolution does not appear to be as great as that of an ordinary bill, consider the following examples taken directly from U.S. Statutes at Large for two random years: 1953 and 1972.

JOINT RESOLUTIONS - 1953

- P. L. 1 - holiday for federal employees
- P. L. 5 - to amend National Housing Act
- P. L. 10 - to authorize furnishing of additional office equipment
- P. L. 12 - extension of time limit [for a statute]
- P. L. 13 - when law is to take effect
- P. L. 14 - permitting certain construction work on Capitol Grounds
- P. L. 32 - permitting U.S. Government to participate in an aviation celebration
- P. L. 51 - proclaiming an "Aid to Korea Week"

P. L. 58 - proclaiming "Theodore Roosevelt Week"

P. L. 66 - to amend an Act

P. L. 87 - to extend boat charters to a foreign government

Note: P. L. 91 - making temporary appropriations for fiscal year 1954

P. L. 96 - extending time limit of statute

P. L. 106 - designating someone to act as a clerk to House of Representatives

P. L. 110 - expenses for annual meeting of Interparliamentary Union

Note: P. L. 127 - continuing appropriations for a month

P. L. 142 - appointment of member of Smithsonian Institution

P. L. 152 - erection of memorial to a person

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ETC.

JOINT RESOLUTIONS - 1972

P. L. 92-232 - extending date for report to Congress from a committee

P. L. 92-234 - "National Beta Club Week"

P. L. 92-235 - to provide for a procedure for settling Pacific Coast longshoremen strike

P. L. 92-248 - "National Week of Concern for Prisoners of War/Missing in Action"

P. L. 92-251 - extension of time limit for a statute

Note: P. L. 92-256 - urgent supplemental appropriations

[Note that P. L. 92-257 was "AN ACT Relating to the Trust Territory of the Pacific Islands"

P. L. 92-274 - "National Check Your Vehicle Emissions Month"

P. L. 92-276 - "National Arbor Day"

P. L. 92-278 - "Father's Day" - 3rd Sunday in June

P. L. 92-282 - to pay tribute to law enforcement officers

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ETC.

To conclude: Joint Resolutions appear to be used primarily for minor laws and relatively insignificant legislation, with two important exceptions:

- (1) supplemental appropriations [probably used because of urgency of action].
- (2) amendments or corrections to other laws - usually with reference to time limits or extensions.

Hind's Precedents (vol. 4, 1907)

#3367: The formula for an "appropriations" joint resolution must be in the following form:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled."

#3371: In 1871, acts of Congress were listed under "acts" and "joint resolutions" - the two categories being mutually exclusive.

#3372: In 1871, the Speaker said:

" . . . joint resolutions shall be confined to inferior style of legislation as well as to the highest style of legislation, proposing amendments to Constitution of United States . . . [legal profession complained the most.]

#3373: In 1876, Congress decided that the joint resolution should be less used for ordinary matters of legislation.

#3375: The Speaker of the House (John White) said that the joint resolution was in fact a bill.
[1843]

Cannon's Precedents (vol. 7, 1936)

#1036: A joint resolution is a bill within the meaning of the rules. The term "bill" is a generic one and includes resolutions.

Congressional Quarterly's Guide to the Congress of the United States

(p. 105-06) "Bills are used as the form for most legislation, whether general or special, public or private."

"A joint resolution requires the approval of both houses and the signature of the President, just as a bill does, and has the force of law if approved. There is no real difference between a bill and a joint resolution. The latter [however] is generally used in dealing with limited matters, such as a single appropriation for a specific purpose."

Cannon's Procedure in the House of Representatives (1920)

"A bill is the proper instrumentality for general legislation. A joint resolution is a bill so far as the parliamentary processes are concerned, but deals with individual, unusual, or subordinate legislation, and is used principally for corrections."

How Our Laws Are Made (by Charles J. Zinn) 1959 p. 4

"Joint resolutions may originate in either the House of Representatives or the Senate. There is little practical difference between a bill and a joint resolution and although the latter are not as numerous as bills the two forms are often used indiscriminately. Statutes which have been initiated as bills have later been amended by a joint resolution, and vice versa. Both are subject to the same procedure (except with regard to Constitutional amendments) Joint resolutions become law in the same manner as bills."

Effective Legal Research (by Price & Bitner) 1969 p. 15

"It is said that the joint resolution has a preamble more often than does an act, but both acts and joint resolutions have equally the force of law in federal legislation. In some states, however, the joint resolution has a lesser status than the act."

(p. 22) "Beginning with volume 65 in 1951, the U.S. Statutes at Large have contained . . . public and private laws, joint and concurrent resolutions,"

The Legislative Process in Congress (by George Galloway)
1953 p. 50

"A bill is the proper instrument of general legislation."

"A joint resolution is a bill so far as the parliamentary processes are concerned and must be signed by the President (with exception). It deals with individual, unusual, or subordinate legislation. A joint resolution is the proper vehicle for authorizing invitations to foreign governments, for the correction of errors in bills that have gone to the President, for enlarging the scope of inquiries provided by law, etc. In Harver & Co. v. William R. Trigg & Co., 1909 (110 Va. 165, at p. 201, 65 S.E. 538), Judge Cardwell said: 'The difference between an Act of Congress and a joint resolution is, that the former governs all persons under the jurisdiction of the enacting power, while the latter is but a rule for the guidance of the agents and servants of the sovereign.'"

Other Information

1. Three types of joint resolutions? - I believe there is only one type, which always starts out as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled," that

Most joint resolutions are very short in length,
and usually deal with a single, specific subject.

Where the joint resolution is used to amend a prior act (or joint resolution), that prior act

(or joint resolution) is rarely (if ever) spelled out in the amending joint resolution - it is simply incorporated by reference.

2. Update of Hind's Precedents? - Will not be completed for about two years.
3. Procedure: The preliminary information I have received [from Bob Timpkin at the Library of Congress, American Law Division, x6012], is that there is no difference in procedure between an act and a joint resolution. The possible argument for the existence of a difference owing to the fact that supplemental appropriations legislation is often drafted in the form of a joint resolution is not supportable, because any appropriations bill (whether an act or a joint resolution) receives preference over almost any other type of legislation. That supplemental appropriations legislation is often in the form of a joint resolution is probably due to the fact that a joint resolution usually deals with one single, specific subject (i.e., a specific appropriations request), whereas a bill frequently contains many varied provisions.