

OPINION  
69-206

April 7, 1969 (OPINION)

Mr. Walter R. Hjelle

State Highway Commissioner

RE: Legislature - Procedure - Validity of Bill

This will acknowledge receipt of your letter of April 1, 1969, requesting an opinion as to the validity of the enactment by the Forty-first Legislative Assembly of House Bill 500, which has been approved by the Governor.

The principal challenge of the validity of House Bill 500 appears to revolve around the procedure followed by the House of Representatives at the time the bill was first voted on in that house, as reflected by entries in the House Journal at pages 816 through 820.

If these steps in the House of Representatives had constituted the final action by that house on House Bill 500, there may have been some merit in questioning the validity of the enactment. This, however, was not the final passage by the House of Representatives. Subsequent steps and subsequent actions taken by both houses must be examined in the light of the requirements of Section 65 of Article II of the North Dakota Constitution in determining the validity of House Bill 500.

Section 65 of the Constitution of North Dakota reads as follows:

No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered in the journal."

First of all, there is a presumption of regularity in the enactment of a bill which contains the signatures of the proper officers. The North Dakota Supreme Court has had several cases wherein the validity of an enactment was an issue. See *Power v. Kitching* 10 N.D. 254, 86 N.W. 737; *Woolfolk v. Albrecht* 22 N.D. 36, 133 N.W. 310; *State v. Schultz* 44 N.D. 269, 174 N.W. 81; and *State ex rel. Sorlie v. Steen* 55 N.D. 239, 212 N.W. 843. Our Supreme Court has also cited the South Dakota decision in *Narregang v. Brown County* 85 N.W. 602 with approval.

In the last cited North Dakota decision, *State v. Steen* (supra) the court said that it is presumed that all steps necessary to effect the legislative result evidenced by an enrolled bill have been regularly taken, and that such presumption will prevail until the contrary is made to appear from the records showing the action of the legislative bodies.

We are of the opinion that each house of the Legislative Assembly is the final judge as to compliance with their own rules, so we make no determination as to compliance with such rules except to state that

the rules adopted by the Legislative Assembly may not supersede the Constitution of North Dakota.

The record in the House Journal at pages 1552 through 1554 and in the Senate Journal at pages 1288 through 1290 disclose compliance with the requirements of Section 65 of the North Dakota Constitution and we do not deem it appropriate to speculate as to the validity of the enactment had it been necessary to support such validity by the action of the House of Representatives as reflected by the House Journal entries on pages 816-820.

It is, therefore, our opinion that the provisions contained in House Bill 500 will be the valid law of this State on July 1, 1969.

HELGI JOHANNESON

Attorney General