

**OPINION**  
**53-70**

March 20, 1953 (OPINION)

LEGISLATION

RE: Discrepancy in Recorded Proceedings

We have a request from your office for an opinion to determine the correctness of House Bill 819 relating to county officers' salaries recently passed by the legislative assembly of North Dakota which amends section 11-10102 of the 1949 supplement to the North Dakota Revised Code of 1943. It appears from your request that there is a discrepancy between the recorded proceedings of the House and Senate and that of the enrolled and engrossed bill.

In checking this matter, we find that House Bill 819 was substantially amended several times, both in the House and Senate. Then a select committee of the House and Senate, known as the Conference Committee, made it report to both the House and Senate, and we find on page 782 of the Senate Journal that the Conference Committee agreed on certain amendments, which, among other things, provides that subsection 2 of the bill be amended to read as follows: "three thousand one hundred dollar" instead of the previous "three thousand two hundred dollars". This Conference Committee report was adopted by both the Senate and the House and as so amended, it passed both the senate and the House. Thereafter, it appears that when the bill was enrolled and engrossed and signed by the Speaker of the House, the President of the Senate and approved by the Governor that the enrolled and engrossed bill read "three thousand two hundred".

The question which you would like determined is as to what is the correct figure to be used by counties in paying the salaries of county officials in which this particular population applies.

This office has consistently held in prior years that where there is a clerical or other mistake in the act as it was passed by the House and the Senate and that of the enrolled and engrossed bill signed by the presiding officers and approved by the governor, that the record of the House and Senate as it appears in the official journals is controlling.

This opinion is further strengthened by section 1-0206 of the North Dakota Revised Code of 1943 which reads as follows:

"CLERICAL AND TYPOGRAPHICAL ERRORS. Clerical and typographical errors shall be disregarded when the meaning of the legislative assembly is clear."

There is no question as to the intent of the legislative body and that is that the salaries for those counties should be three thousand one hundred dollars.

This holding by the office of the Attorney General is further strengthened by the decision of the North Dakota Supreme Court in the

case of State of North Dakota v. John Schultz, 44 × 269, in which the court held that the record of the House and Senate as it is evidenced by the recorded proceedings of the two bodies must be accepted as the real intent of the legislature and should control.

It is, therefore, the opinion of this office that House Bill 819 must be construed to read in subsection 2 thereof "three thousand one hundred dollars in counties having a population exceeding four thousand five hundred and not exceeding six thousand;".

ELMO T. CHRISTIANSON

Attorney General