

The Enacting Clause

Constitutional Requirements of Laws

All written constitutions prescribe the mode and process of making laws. This includes the reading of the bill on three different days in each house, that if passed it is to be signed by the speaker of the house and by the president of the senate, the recording of the votes upon the journal, being signed by the governor or president, and other such procedures.

But the constitutions also regulate the *form* and *style* in which laws are to be enacted to make them laws of the State. The form and style are regarded as essential parts of the law and thus must be included at all times with the law to make it a valid law. Laws or statutes traditionally have had three main parts:

The three essential parts of every bill or law are: (1) the title, (2) the enacting clause, and (3) the body.¹

The title and enacting clause of a law are two aspects of its *form* and *style* which are necessitated by both fundamental law and constitutional mandate. Titles and enacting clauses have been used in the process of making laws long before America was a country. But when the comprehensive "Revised Statutes" started to be used, the titles and enacting clauses disappeared from the records and publications of the laws. A look at any modern Revised or Codified State Statute book or the United States Code will reveal that the laws within them have neither titles nor enacting clauses. What does this mean? We have to look at these areas specifically to see the ramifications they have on the authority of law as found in these codes and revisions. We will

first examine the enacting clause as this is the main item that directly relates to authority of law.

An enacting clause, sometimes called an enacting style or enacting authority, is that part of a law which usually comes after the title and before the body of the law. The following shows the manner in which this provision is prescribed in some of our state constitutions:

CONSTITUTION OF CALIFORNIA—1879

SECTION 1. The enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

CONSTITUTION OF INDIANA—1851

SECTION 1. The style of every law shall be, "Be it enacted by the General Assembly of the State of Indiana."

CONSTITUTION OF TEXAS—1876

SEC. 29. The enacting clause of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

CONSTITUTION OF NORTH CAROLINA—1876

SEC. 21. The style of the acts shall be: "The General Assembly of North Carolina do enact."

The Constitution for the United States does not prescribe an enacting clause, but Congress has from the beginning used such a clause on all congressional laws. The style which has preceded all laws of Congress is, "*Be it enacted by the Senate and House of Representatives of the United States of America.*" The Supreme Court of Georgia in 1967, said that "the constitutions of 46 states specify the form of

1 H. Walker, *Law Making in the United States*, p. 316. Some laws also have an optional "preamble" after the title.