

the enacting clause. Only the constitutions of Delaware, Georgia, Pennsylvania and Virginia, as well as the Constitution of the United States, are silent on the point.” The Court also stated the function and purpose of such a provisions:

The enacting clause is that portion of a statute which gives it jurisdictional identity and constitutional authenticity. * * * The purpose of an enacting clause is to establish the act; to give it permanence, uniformity and certainty; to afford evidence of its legislative, statutory nature, and thus prevent inadvertence, possible mistake, and fraud.”²

The enacting clause gives a statute its “constitutional authenticity,” which makes its use essential since the constitution is the source of the legislature’s authority for enacting laws. A law cannot be regarded as coming from a constitutionally authorized source if it does not have an enacting clause. The enacting clause provides evidence that the law which follows is of the proper legislative source or jurisdiction. This function and purpose of such a constitutional provision has often been expressly stated:

What is the object of the style of a bill or enacting clause anyway? To show the authority by which the bill is enacted into law; to show that the act comes from a place pointed out by the Constitution as the source of legislation.³

The enacting clause is a short formal statement, appearing after the title, indicating that all which follows is to become law, and giving the authority by which the law is made. There is no excuse for not using it.⁴

The enacting clause is the section of a bill or statute which establishes the whole document as a law.⁵

The enacting part of a statute is that which declares its enactment and identifies it as an act of legislation.⁶

Since the Legislature, and not any other body or agency, is given certain law making authority, an enacting clause is necessary to show that the law in question comes from that duly assembled Legislature. If any law is to have authority behind it, it must have an enacting clause preceding it, as is required by the constitution and fundamental law.

Historical Usage of An Enacting Clause

An enacting clause of some sort has long been used to preface a law, order or command, so as to declare or make known to all concerned the source of the law, and thereby the authority for that law or order to exist. It is in effect a statement of the name of the authority that enacted the law affixed to the law, or on its face, to make it clear that all which follows is to be law from that authority so named.

The almost unbroken custom of centuries has been to preface laws with a statement in some form declaring the enacting authority. The purpose of an enacting clause of a statute is to identify it as an act of legislation by expressing on its face the authority behind the act.⁷

The use of an enacting clause is one of the oldest concepts used in the process of issuing or enacting laws, edicts and commands, to identify the source and authority for the law. It was perhaps first used by God Himself when He issued a command, directive or law. Thus when God gave Israel the Ten Commandments it was made known to Israel the source and authority of these laws:

2 *Joiner v. State*, 155 S.E.2d 8, 10, 223 Ga. 367 (1967).

3 *Ferrill v. Keel*, 151 S.W. 269, 272, 105 Ark. 380 (1912).

4 Harvey Walker, *The Legislative Process*, N.Y., Ronald Press Co. (1948), p. 346.

5 *Pearce v. Vittum*, 61 N.E. 1116, 1117, 193 Ill. 192 (1901).

6 *State v. Reilly*, 95 Atl. 1005, 1006, 88 N.J. Law 104 (1915).

7 73 *American Jurisprudence* 2d, “Statutes,” § 93.