

constitution, or unworthy of such an instrument, to prescribe a uniform style for such enacting clause.¹⁰

This case dealt with “the validity of Laws 1897, c. 250,” and it was held that “Law 1897, c. 250, is void.” While the court mainly decided this because the law had no enacting clause when signed by the governor, it clearly expressed that if laws are to be regarded as valid laws of the state, they “must express upon their face the authority by which they were promulgated or enacted.” The law was published in the statute book without an enacting clause (see Fig. 1). The law was thus challenged as being “unconstitutional” because it “contains no enacting clause whatever.”

The enacting clause must be readily visible on the face of the statute so that citizens don’t have to search through the legislative journals or other records or books to see if one exists. Thus a statute book without the enacting clause is not a valid publication of laws. In regards to the validity of a law that was found in their statute books without an enacting clause, the Supreme Court of Nevada held:

Our constitution expressly provided that the enacting clause *of every law* shall be, “The people of the state of Nevada, represented in senate and assembly, do enact as follows.” This language is susceptible of but one interpretation. There is no doubtful meaning as to the intention. It is, in our judgment, an imperative mandate of the people, in their sovereign capacity, to the legislature, requiring that all laws, to be binding upon them, shall, upon their face, express the authority by which they were enacted; and, since this act comes to us without such authority appearing upon its face, it is *not a law*.”¹¹

The manner in which the law came to the court was by the way it was found in the statute book, cited by the Court as “Stat. 1875, 66,”

and that is how they judge the validity of the law. Since they saw that the act, as it was printed in the statute book, had an insufficient enacting clause on its face, it was deemed to be “not a law.” It is only by inspecting the publicly printed statute book that the people can determine the source, authority & authenticity of the law they are expected to follow.

The Supreme Court of Arkansas, in construing what are the essentials of law making, and what constitutes a valid law, stated the following:

[A] legislative act, when made, should be a written expression of the legislative will, in evidence, not only of the passage, but of the authority of the law-making power, is nearly or quite a self-evident proposition. Likewise, we regard it as necessary that every act, thus expressed, should show on its face the authority by which it was enacted and promulgated, in order that it should clearly appear, upon simple inspection of the written law, that it was intended by the legislative power which enacted it, that it should take effect as law. These relate to the legislative authority as evidence of the authenticity of the legislative will. These are features by which courts of justice and the public are to judge of its authenticity and validity. These, then, are essentials of the weightiest importance, and the requirements of their observance, in the enacting and promulgation of laws, are absolutely imperative. Not the least important of these essentials is the style or enacting clause.¹²

The common mode by which a law is “promulgated” is by it being printed and published in some authorized public statute book. Thus that mode of promulgation must show the enacting clause of each law therein on its face, that is, on the face of the law as it is printed in the statute book. This is the only way that the “courts of justice and the public are to judge of its authenticity and validity.”

10 *Sjoberg v. Security Savings & Loan Assn*, 73 Minn. 203, 213, 75 N.W. 1116 (1898).

11 *State of Nevada v. Rogers*, 10 Nev. 120, 261 (1875); cited with approval in: *People v. Dettenthaler*, 77 N.W. 450, 452, 118 Mich. 595 (1898); *Kefauver v. Spurling*, 290 S.W. 14, 15, 154 Tenn. 613 (1926).

12 *Vinsant, Adm’x v. Knox*, 27 Ark. 266, 284, 285 (1871).