

The decision in the *Vinsant* case was later approved by the Court in a case where a man was convicted of failing to follow an animal health law—"The Tick Eradication Law." He appealed by demurrer on the basis that the law claimed violated in the indictment did not have an enacting clause as found in the statute book. The Court said:

The appellant demurred to the indictment on the ground that the facts stated do not charge a public offense. The appellant contends that Act 200 of the Acts of 1915, p. 804, providing a method for putting in operation the tick eradication law in Pike county, was void because it has no enacting clause. Appellant is correct in this contention. The act contains no enacting clause, and, under the decisions of this court, such defect renders it a nullity. Article 5, § 19, and article 29, amend. 10, Const. 1874; *Vinsant, Adm'x v. Knox*, 27 Ark. 266.<sup>13</sup>

The section of the state Constitution cited by the Court (Art. 5, § 19) states: "The style of the laws of the State of Arkansas shall be: '*Be it enacted by the general assembly of the State of Arkansas*'." The laws of the State are to bear this enacting style, otherwise they are not valid laws. The law in this case was missing this constitutional prerequisite of an enacting clause as printed in the statute book (see Fig. 2). As such it carried no force and effect as a law. Thus laws, as they are taken or cited from statute books, which have no enacting clause cannot be used to charge someone with a public offense because they are not valid laws.

In a case in Kansas, a man was indicted for violating a law making it unlawful to print and circulate scandals, assignations, and immoral conduct of persons. He was arrested upon an indictment and applied for his discharge upon *habeas corpus* alleging that the act of the legislature was not properly published. The act had been published several weeks before the

indictment, "which publication omitted an essential part of said act, to-wit, the enacting clause." The Court held that the act was not properly and legally published at the time the indictment was found, thus the act was not in force at the time the indictment was brought against the petitioner. The Court also held:

The publication of an act of the legislature, omitting the enacting clause or any other essential part thereof, is no publication in law. The law not being in force when the indictment was found against the petitioner, nor when the acts complained of therein were done, the petitioner could not have been guilty of any crime under its provisions, and is therefore, so far as this indictment is concerned, entitled to his discharge.<sup>14</sup>

There was no question involved here of whether an enacting clause was used on the bill in the legislature. The fact that the law was published without one was sufficient to render it void or invalid. Thus a publication of an act omitting the enacting clause is not a valid publication of the act. If the required statement of authority is not *on the face* of the law, it is not a law that has any force and effect. Such a published law cannot be used on indictments or complaints to charge persons with a crime for its violation. This decision was upheld and affirmed by the Court in 1981, when it said:

In [the case of] *In re Swartz, Petitioner*, 47 Kan. 157, 27 P. 839 (1891), this court found the act in question was invalid because it had been mistakenly published without an enacting clause. We again adhere to the dictates of that opinion.<sup>15</sup>

Thus whatever is published without an enacting clause is void, as it lacks the required evidence or statement of authority. Such a law lacks proof that it came from the authorized source spelled out in the constitution, and thus is not a valid publication to which the public is obligated to give any credence.

<sup>13</sup> *Palmer v. State*, 208 S.W. 436, 137 Ark. 160 (1919).

<sup>14</sup> *In re Swartz*, 27 Pac. 839, 840, 47 Kan. 157 (1891).

<sup>15</sup> *State v. Kearns*, 623 P.2d 507, 509, 229 Kan. 207 (1981).