

Opinion No. 51-5341

March 9, 1951

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Calvin Horn Speaker, House of Representatives Twentieth Legislature
Santa Fe, New Mexico

{*17} I have your letter of March 8, 1951, in which you request the opinion of this office on certain questions regarding the enrolling and engrossing of bills.

Section 20 of Article 4 of the Constitution of the State of New Mexico provides as follows:

"Immediately after the passage of any bill or resolution, it shall be enrolled and engrossed, and read publicly in full in each house, and thereupon shall be signed by the presiding officers of each house in open session, and the fact of such reading and signing shall be entered on the journal. No interlineation or erasure in a signed bill, shall be effective, unless certified thereon in express terms by the presiding officer of each house quoting the words interlined or erased, nor unless the fact of the making of such interlineation or erasure be publicly announced in each house and entered on the journal."

In order to correctly interpret this section it is first necessary to secure a definition of the term "enrolled and engrossed." Although originally the two words had different meanings they have come to mean approximately the same thing. **Horack's, Sutherland on Statutory Construction, 3rd Ed., §§ 1401, et seq.** In *Rice v. Lonoke-Cabot Road Construction District*, 142 Ark. 454, 221 S.W.179, it was stated:

"An 'enrolled bill' in legislative parlance is a reproduction or copy of the identical bill passed by both houses of the general assembly."

In *Smith v. McMichael*, 203 Ga. 74, 45 S.E. 2d, 431, the court stated:

{*18} "An 'enrolled bill' is exact copy of what remains of original bill as introduced by its author after such alterations and amendments as the legislature may adopt, and is the final form and substance which alone becomes law when duly signed by presiding officers of general assembly and approved by governor."

From the foregoing it is obvious that enrolling and engrossing contemplates the exact reproduction of the original measure as it has been amended during its passage through the legislature. This being the case, no person, during the process of enrolling and engrossing any measure, has any right to make the form of the enrolled and engrossed bill any different than the measure which passed the legislature. If typographical errors appeared in the original bill or in any amendments it is to be

presumed that the legislature knew of these typographical errors and with that knowledge passed the measure. It is the function of both houses of the legislature, and not any other person or agency, to determine the spelling, punctuation and other grammatical matters contained in the laws passed.

The last sentence of § 20 of Art. 4 of the Constitution of New Mexico gives the presiding officers of the two houses of the legislature authority to approve interlineations and erasures under certain circumstances and in a certain manner. This authority relates only to the correction of the enrolled and engrossed bill so that it will compare exactly with the original measure as in the form in which it finally passed both houses of the legislature. This sentence does not authorize changes in the enrolled and engrossed bill which would modify the original bill.

Your attention is directed to § 21 of Art. 4 of the Constitution of New Mexico, which forbids in substance the material change or alteration of any bill pending or passed by the legislature, and provides a penalty of from one to five years imprisonment in the penitentiary.

I trust the foregoing is a sufficient answer to your inquiry.