



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 24, 1978

ATTORNEY GENERAL OPINION NO. 78- 172

Mr. Sherman A. Parks, Jr.
Deputy Assistant Secretary of State
Office of the Secretary of State
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: Statutes--Publication--Errors

Synopsis: The Secretary of State should publish in the 1978 Session Laws only the correctly engrossed copy of Substitute for Senate Bill 849 which correctly reflects amendments thereto as finally approved by both houses of the legislature. The first version of the bill, signed by the governor and forwarded to the Secretary of State, does not correctly reflect the terms of the measure as finally passed by both houses, and only the second, and correctly engrossed bill, signed subsequently by the governor should be published in the 1978 Session Laws.

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Dear Mr. Parks:

You advise that on April 14, 1978, Substitute for Senate Bill 849 was delivered to the governor, signed by him on April 19, 1978, and delivered thence to your office. Thereafter, the Revisor of Statutes determined that this bill had been incorrectly engrossed, and that the bill which had been signed by the governor and delivered to your office contained certain errors departing from the terms of the bill as finally passed by both houses of the legislature. The Revisor of Statutes caused the bill to be correctly engrossed, and the corrected measure was submitted to the governor, who signed it and forwarded it to your office. You request my opinion whether both bills should be published in the 1978 Session Laws, or whether only the correctly engrossed bill should be so published.

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No bill can become law in this state unless it is passed by a majority of both houses of the legislature and thereafter signed by the governor, or permitted by the governor to become law without his signature. The journal of the House of Representatives for April 7, 1978, disclose that the bill first enrolled and signed by the governor did not include all amendments thereto which were approved by both the House and the Senate. Thus, the governor's signature of the incorrectly engrossed bill was ineffective to constitute that bill a law of this state, because the measure so signed did not correctly reflect the terms of the bill as finally passed by both houses. Only the later bill, as correctly engrossed, accurately reflected the will of the legislature in its final action on the bill. K.S.A. 1977 Supp. 45-310 states in pertinent part thus:

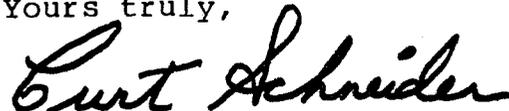
"(a) All acts passed at each session of the legislature shall be published in one or more volumes, under the direction of the secretary of state, as soon as practicable after the close of the session at which the same are passed."

Subsection (d) states thus:

"The secretary of state is authorized and directed to exercise editorial judgment in preparation of such volume or volumes to the end that the purposes of this act are made effective."

The Secretary of State is authorized to publish in the Session Laws only those measures which are in fact passed by both houses and which thereafter became law, and certain other matter not pertinent here. The Substitute for Senate Bill 849 which was first received by your office was not in fact the act passed by each house of the legislature, and should not be published. In my judgment, only the correctly engrossed bill should be included in the 1978 Session Laws, and the editorial judgment of the Secretary of State should be exercised accordingly.

Yours truly,



CURT T. SCHNEIDER
Attorney General