



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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May 16, 1953

Hon. Allan Shivers
Governor of Texas
Austin, Texas

Letter Opinion No. MS-36

Re: Effect of typographical error
in Senate Bill 120, Acts 53rd
Legislature, 1953

Dear Governor:

Your request for an opinion of this office relates to Senate Bill No. 120, Acts 53rd Legislature, 1953, which is an amendment to Section 14, Chapter 318, Acts of the Regular Session of the 51st Legislature, 1949, as amended by Section 5 of Chapter 324, Acts of the 52nd Legislature, 1951. The bill, as written, inadvertently refers to the 51st Legislature, 1951. An examination of the history of this proposed bill reveals that the engrossed bill correctly referred to the 1951 session of the Legislature as the 52nd Legislature, whereas the enrolled bill refers to the same as the 51st Legislature, evidencing a typographical error.

In Cernoch v. Colorado County, 48 S.W.2d 470, 473 (Tex. Civ.App. 1932), the court stated:

"... It is a familiar rule that the court, in construing an act of the Legislature, must ascertain the intention of the Legislators in the framing and passage of the law.

"In 25 R.C.L., § 157, page 705, we find the following language: "It has been held that where a reference in an amendatory act to the section of the act amended is plainly a mistake, and that it was clearly intended to amend another section, the amendatory act is not invalid; for the intention of the legislature should govern, and clerical mistakes should be disregarded." ..."

Other cases following this rule are: Fross v. Darrouzett Independent School Dist., 277 S.W. 751 (Tex.Civ.App. 1925, error dismissed); Millers' Mut. Fire Ins. Co. v. City of Austin, 210 S.W. 825 (Tex.Civ.App. 1919).

In Dolan v. Walker, 121 Tex. 361, 49 S.W.2d 695 (1932), the Court said:

"The rule is also well established that the courts cannot adopt the construction of a section of a statute, no matter how plainly required by its language standing alone, which would defeat the intention of the legislature as reflected in the whole statute."

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Senate Bill No. 120 clearly reflects that the Legislature intended a reference to the 52nd Legislature inasmuch as it is well known that the 52nd Legislature convened in 1951 and such typographical error cannot detract from the intended meaning. See Loving County v. Reeves County, 126 S.W.2d 87 (Tex.Civ.App. 1939, error ref.). Therefore, in answer to your question, it is our opinion that the error incorporated within the proposed legislation does not invalidate the same.

Yours very truly,

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By
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Assistant

BW:cm