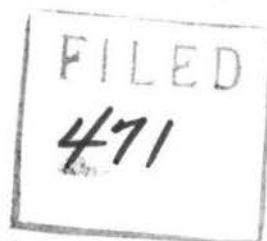


December 6, 1971

OPINION LETTER NO. 471  
Answer by letter-Nowotny

Honorable J. F. Patterson  
State Senator, District 25  
112 West 18th  
Caruthersville, Missouri 63830



Dear Senator Patterson:

This is in reply to your request for an opinion of this office in which you ask whether the Engrossing Clerk of the Senate may receive bills that have been filed as of December 1, 1971, as provided by House Bill No. 156, 76th General Assembly, since the office of the Secretary of the Senate is vacant.

House Bill No. 156 provides for the filing of bills in a certain period prior to the annual session and Section 2 provides as follows:

"A member or a member-elect of the senate may file a bill by mail or in person, according to appropriate rules of the senate, with the secretary of the senate at any time during the filing period. Upon receiving a bill filed during the filing period preceding a regular session of the general assembly in an odd-numbered year, the secretary of the senate shall immediately have the bill printed and made available according to the rules and practices of the general assembly next preceding that for which the bill is filed and those bills received during the filing period preceding a regular session in an even-numbered year shall be printed and made available according to the then effective rules of that general assembly."

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Section 4 then provides that bills filed during such period are automatically introduced on the opening day of the following session.

Both the Secretary of the Senate and the Engrossing Clerk are appointed by the Senate pursuant to Article III, Section 18, Constitution of Missouri, which also empowers the Senate to determine the rules of its own proceedings. You have advised us that the Senate has not promulgated any special rules relating to House Bill No. 156. However, the present rules of the Senate may be applicable.

Rule No. 3 provides that the fifth order of business shall be the introduction of bills.

Rule No. 18 specifies duties of the Secretary as follows:

"It is the duty of the secretary to keep an exact journal of the proceedings of the senate and he shall, from time to time, be subject to further orders, as the senate may direct. It shall be sufficient in recording action on bills by the senate for the Journal to refer to them by number only, except when the bills are presented for the first time, or when final action is taken on third reading, in which case the title shall be set out in full."

In addition to these rules, you have advised us that the practice of the Senate is that when bills are introduced when the Senate is in session the bills are actually given to the Engrossing Clerk who receives the bills for introduction and records the bills in the Senate Journal. You have further advised that such functions of the Engrossing Clerk were done under the supervision of the Secretary.

It is our opinion from these rules and practices of the Senate that in actual practice the Engrossing Clerk has been given the duties of assistant to the Secretary. See Section 21.150 referring to an assistant secretary. Since it was the Senate and not the Secretary who made such determination then such person can continue to act even though the office of Secretary is vacant. See Attorney General's Opinion No. 235, December 12, 1968, Holman.

Therefore, any bills filed as of December 1, 1971, with the Engrossing Clerk, acting with the consent of the Senate as assistant

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secretary to the Senate, would be valid and effective as they concern the public. See 67 C.J.S., Officers, Section 154; and 43 Am. Jur., Public Officers, Section 469.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 235  
12-12-68, Holman