

**Opinion No. 34.****Appropriations—Misnomer—Industrial  
Accident Board—Adjutant Gen-  
eral, Substitution of—  
Safety Code.**

HELD: The words "Industrial Accident Board" may be substituted for the words "Adjutant General" in that portion of House Bill No. 370, Thirty-third Legislative Assembly, 1953, which appropriated \$5,000.00 for the compilation and publication of the safety codes.

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June 30, 1953.

Robert F. Swanberg, Chairman  
Industrial Accident Board  
Helena, Montana

Dear Mr. Swanberg:

You have presented the following for my consideration:

House Bill No. 370 enacted by the the Thirty-third Legislative Assembly appropriated \$5,000.00 to the Adjutant General for the purpose of compiling and printing safety codes. No appropriation for this purpose was made to the Industrial Accident Board by the Thirty-third Legislature. You inquire as to whether or not the words "Industrial Accident Board" may be substituted for the words "Adjutant General" in said provision, so that the funds appropriated for the printing and compiling of safety codes provided for therein, may be used by the Industrial Accident Board for that purpose.

The duties of the Adjutant General do not concern safety codes nor is there any reason why the compilation of safety codes should be placed in this office. Sections 77-117 through 77-120, R. C. M., 1947. The Industrial Accident Board is the only agency which has statutory authority to promulgate and enforce safety regulations. Sections 92-1201 through 92-1222, R. C. M., 1947. Therefore, it is only through error on the part of the legislature that these funds were placed in the appropriation made to the Adjutant General's office.

The question thus presented is: When the context of an Act shows the erroneous use of one word for another, may a word be substituted which will make the Act harmonious with other provisions of the applicable laws and the obvious intent of the legislature?

In *Pond v. Maddox*, 28 Cal. 572, that court early announced the proposition of statutory construction that where it appears from all sources of interpretation that a provision of a statute was inserted through inadvertence it will be disregarded.

In *Coney v. City of Topeka*, 96 Kan. 46, 149 Pac. 689, that court substituted the figure "5" for the figure "3" in a statute which used the figure "3," stating:

"This is the section to which the Legislature intended to refer for the determination of the sufficiency of plaintiff's petition. Nor does this do the slightest violence to standard rules of statutory construction. It is

familiar law that legislative enactments are not, any more than any other documents, to be defeated on account of errors, mistakes or omissions. Where one word or figure has been erroneously used for another, or a word omitted, and the context affords the means of correction, the proper word or figure will be deemed substituted or supplied. This is only making the naked letter of the statute yield to its obvious intent." (Emphasis supplied.)

See, further, *Meier v. Superior Court*, 67 Cal. App. 135, 227 Pac. 490; *Speer v. Stephenson*, 16 Idaho, 707, 102 Pac. 365, and *Territory v. Ashenfelter*, 4 N. M. 85, 12 Pac. 879, wherein the words "district attorney" were substituted for the words "attorney general."

It is therefore my opinion that the words "Industrial Accident Board" may be substituted for the words "Adjutant General" in that portion of House Bill No. 370, Thirty-third Legislative Assembly, 1953, which appropriated \$5,000.00 for the compilation and publication of the safety codes.