

N.D.A.G. Letter to Sperry (July 31, 1985)

July 31, 1985

Mr. James E. Sperry
Superintendent
State Historical Society
of North Dakota
North Dakota Heritage Center
Bismarck, ND 58505

Dear Mr. Sperry:

Thank you for your letter of June 19, 1985, regarding the establishment of a membership group in the State Historical Society of North Dakota governed by the State Historical Board.

The first question which you present in your letter is whether private citizens can be enlisted as members of the State Historical Society of North Dakota by policy established by the State Historical Board under current statutes. As a general rule, public officials only have such authority as is expressly given them by the Constitution and statutes together with those powers and duties which are necessarily implied from express grant of authority. An examination of the power of the State Historical Board as codified in N.D.C.C. § 55-01-02 reveals that the Board has no express authority to enlist private citizens as members of the State Historical Society of North Dakota.

A review of the statutes dealing with the creation and powers of the State Historical Society was performed to determine if the North Dakota Legislature intended that private citizens be enlisted as members of the State Historical Society. The statutes, dating back to 1895 and their subsequent amendments, reveal that the North Dakota Legislature never intended that private citizens be members of the State Historical Society. Therefore, it is my opinion that private citizens may not be enlisted as members of the State Historical Society of North Dakota under current statutes.

As you are well aware, the North Dakota Legislature does not meet until January of 1987. Nevertheless, I would suggest that a series of laws be drafted to give the State Historical Board the authority to enlist private citizens as members of the State Historical Society.

Sincerely,

Nicholas J. Spaeth

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