

CITY OF JAMESTOWN



NORTH DAKOTA

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January 18, 2021

Honorable Lawrence R. Klemin, Chair
Judiciary Committee
North Dakota House of Representatives

RE: House Bill 1138

Dear Chairman Klemin and Members of the Committee:

I am writing to you today to voice my opposition to House Bill 1138. I have not asked our City Council to take an official position on this matter, so I am speaking on my own behalf.

It has been my experience that one is often better using valuable time and energy engaged in efforts where a problem exists rather than to create a solution to a non-existent problem. Article I, Section 4 of the North Dakota Constitution states "Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials of libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases."

In simple words, the last part of this section says "we don't know what was just said, so it will be up to the jury to determine what this is supposed to mean."

So does this mean that if a North Dakota resident appears before a committee of the North Dakota Legislature and wants to testify for two hours and the committee has limited his presentation to five or ten minutes that his constitutional right to freely write and speak has been violated and he has the right to sue the State and demand treble damages and punitive damages? Does this mean there are no rules or regulations for the proper conduct of the State or political subdivisions that can be enforced? Where is the problem? Is it real or imagined?

For example, at the beginning of our monthly Jamestown City Council meetings we have a public hearing entitled "Hearing from the Audience." We allot 15 minutes for this hearing and we offer individuals an opportunity to come to the City Council and speak to us about anything on their mind that is not on the agenda. This has worked well and we have so far had no abuse of this public hearing. So does this bill mean if it becomes law that someone could appear at that public hearing and demand to speak for three hours and keep the City Council from doing its proper business?

Why has this bill been introduced? Where is the problem and has it been identified? On the face of this language it appears to be a bullying tactic. One to be used not for what would appear to be the stated purpose guaranteeing free speech, but rather the opposite one stifling free speech by threats of frivolous legal action and financial ruin to the political subdivisions. This bill as written is simply a bad idea, one whose time has not come and hopefully never will.

Thank you for your consideration.

Yours Truly,

A handwritten signature in black ink that reads "Dwaine Heinrich". The signature is written in a cursive, slightly slanted style.

Dwaine Heinrich, Mayor
City of Jamestown, North Dakota