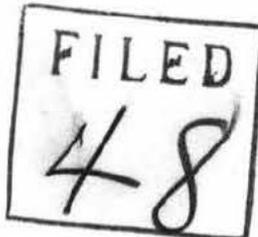


PUBLIC PRINTING AND BINDING:
ELECTION LAWS REVISION COMMISSION:

Report required under sub-paragraph three of Section 4 of Senate Bill No. 194 of the 66th General Assembly, to be printed and published through state purchasing agent. Expense of publishing such report to be borne by Election Laws Revision Commission out of appropriation made by the 66th General Assembly.



June 27, 1952

6-27-52

Honorable Edgar A. Keating, Chairman
Election Laws Revision Commission
1250 Dierks Building
Kansas City, Missouri

Dear Mr. Keating:

The following opinion is rendered in answer to your recent request reading as follows:

"It appears that it will be necessary for the above committee to print its final report to the General Assembly for distribution to the members of the 67th General Assembly convening in 1953, and to the governing boards and attorneys of all of the counties, cities and towns in the state.

The committee would like to have your opinion as to whether the committee itself should make the arrangement of the printing of this report or whether it should be handled through the State Purchasing Agent. The committee would also like to have your opinion as to whether the expense of printing must be paid from the appropriation for this committee or whether it should be paid from the appropriation of the State Purchasing Agent."

Senate Bill No. 194 passed by the 66th General Assembly, provides, in part, as follows:

"Section 1. 1. There is hereby created an election laws revision commission, hereafter called the commission, which shall consist of six members of the senate and six members of the house of representatives. The senate

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members of the commission shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house. No major political party shall be represented on the commission by more than three members from the senate or more than three members from the house.

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Section 2. The members of the commission shall serve without compensation except that they shall be entitled to actual and necessary expenses when in attendance on the meetings of the commission or of its subcommittees and for such necessary expenses incurred in the performance of their duties.

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Section 4. 1. The commission shall make an investigation and study of the whole body of election and registration laws of the state, such investigation to be made in consultation with election commissioners and officials and those having practical experience in this field, with a view to the codification and harmonization of the law by legislative enactment. Particular attention shall be given to the operation and effect of existing laws, the existence of conflicting, obsolete or otherwise undesirable laws affecting registrations and elections, together with such changes or additions to them as may be needed to provide for orderly and peaceable elections.

* * * * *

3. The committee shall prepare and issue a report of its findings, together with any recommendations which it may deem necessary and advisable, and may prepare and draft proposed legislation for the consideration of the general assembly, to implement such findings and recommendations.

4. Such report shall be prepared so that it shall be available to the sixty-seventh general assembly upon its convening in January 1953."

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The questions to be decided in this opinion revolve around the report required to be made under sub-paragraph three of Section 4 of Senate Bill No. 194, supra. The opinion request discloses that the Election Laws Revision Commission will have its report printed and bound. We are dealing, in this opinion, with the question of printing and binding of a report, and not with a question relating to the purchase of ordinary supplies. Section 34.170, RSMo, 1949, provides:

"The state purchasing agent shall purchase all public printing and binding of the state, including that of all executive and administrative departments, bureaus, commissions, institutions and agencies, the general assembly and the supreme court. In such capacity the state purchasing agent is hereby empowered and authorized to take over as a part of the records of his office, all books, documents and records which are now in the hands of the commissioners of public printing and the secretary of state relative to public printing. It shall be the duty of all state officers to order all of their printing and binding through the state purchasing agent. The purchasing agent may authorize any state penal eleemosynary or educational institution to procure all or any part of its own printing and binding."

Section 1.090, RSMo, 1949, discloses the general rule to be followed when interpreting words and phrases contained in a statutory enactment and such section provides as follows:

"Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

The above rule of statutory construction has been applied in the *Donnelly Garment Co. v. Keitel*, 193 S.W. (2d) 577, where in the Supreme Court of Missouri, said, l.c. 581:

"* * * And a primary rule of construction of a statute is to ascertain from the language used the intent of the lawmakers if possible, and to put upon the language its plain and rational meaning in order to promote the object and purpose of the statute. *Hayes v.*

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Unemployment Compensation Commission, supra,
183 S.W. 2d loc. cit. 81, and cases there
cited." (Emphasis ours.)

We have examined various law dictionaries and the permanent edition of Words and Phrases in an effort to determine whether or not the phrase "public printing and binding" had acquired a technical meaning which would necessarily have to be applied under the rule quoted in Section 1.090, RSMo, 1949. We do not find that the phrase has acquired a settled and fixed technical meaning at the time of its incorporation in the statute under consideration, and therefore we are required, in construing the statute, to accord the phrase its plain or ordinary and usual meaning.

Reference to Webster's New International Dictionary, Second Edition, discloses the following definitions of the words which have been incorporated in the statute:

"binding - The fastening of the sections of a book, esp. this fastening and the cover; also, a style or exemplar of book binding."

"printing - Act, art or practice of impressing letters, characters, or figures on paper, cloth, or other material; the business of a printer, including typesetting and presswork, with their adjuncts; typography."

"public - Of or pertaining to the people, relating to, belonging to, or affecting, a nation, state or community at large; -- opposed to private; as the public treasury, credit, good; public opinion, etc. The term public is used in designating the legal character of various acts, rights, occupations, etc., that affect or belong to the collective body of a state, or community."

Applying these definitions to the words found in the phrase under consideration as found in Section 34.170, RSMo, 1949, we are led to the view that the General Assembly thereby referred to printed publications, books, documents, manuscripts, and items of a similar nature, designed primarily for public records and for the dissemination of information relative to the public affairs of the state to the inhabitants thereof. Under the rules heretofore outlined we conclude that the report to be printed and bound under authority contained in sub-paragraph three of said section four of Senate Bill No. 194, supra, comes within the term "public printing and binding of the state" as such phrase is used in Section 34.170, RSMo, 1949.

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We now pass to the question of how the expenses to be incurred in printing and publishing the report under consideration are to be borne. House Bill No. 496 passed by the 66th General Assembly, the same being the Omnibus Appropriation Bill, provides in part as follows:

" * * * Section 10.850. There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Fifteen Thousand Dollars (15,000.00) for the use of the Election Laws Revision Commission, for the payment of expenses of Members of the Commission and for other necessary expenses, as provided by law, for the period beginning July 1, 1951 and ending June 30, 1953. * * *"

Section 34.230, RSMo, 1949, provides as follows:

"All accounts accruing under this law shall be submitted by the vendor to the purchasing agent who shall examine such accounts to ascertain if the printing delivered by the contractor complies in all ways with the specifications and the contract governing the same, after which said accounts shall be presented to the officer for whose department the work was done who shall likewise examine the account before submitting it to the comptroller for payment. The purchasing agent shall keep a record of the cost of printing and binding and a copy of each document shall be duly filed and preserved by him, with the number of copies ordered and delivered and the cost endorsed thereon. The cost of all printing and binding, including annual reports, shall be charged to the appropriation of each agency ordering the same." (Emphasis ours)

CONCLUSION

It is the opinion of this department that the report to be printed and published under authority contained in sub-paragraph 3 of Section 4 of Senate Bill No. 194, passed by the 66th General Assembly, comes within the term "public printing and binding of the state" as that term is used in Section 34.170, RSMo, 1949, and

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that the printing and publishing of the same should be handled through the state purchasing agent, and that the expense incurred for printing and publishing such report is to be charged to the appropriation made by the 66th General Assembly for the Election Laws Revision Commission.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
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