

PUBLIC PRINTING;

"printing" must include embossing, engraving and lithographing and must be done under "printing" contract.

See 1912 R.S. Mo. 97

June 12, 1933. *6-13*



Hon. Dwight Brown
Secretary of State
Jefferson City, Missouri

Dear Mr. Brown:

In determining whether or not there is any justification for differentiating between printing from type and printing from plates, the latter called lithographing and engraving, and applying such to the duties of the Commissioners of Public Printing regarding the contract for state printing, I submit the following:

The word "printing" is applicable to a number of things and when used in its broad sense may be said to include every method of producing a copy. The question presented is to determine the meaning to be given the word as used by the Legislature in the statutes providing for the Commissioners of Public Printing and connected statutes. As said by Judge Graves in the Matter of Publishing the Docket of the Supreme Court, 266 Mo. 1. c. 56,

"The word 'printed' has a varied meaning according to the connection in which it is used. If we are referring to an imprint upon calico rags it has a fixed meaning. If we refer to an imprint upon a stone it has a fixed meaning. * * * * But if we go to the word 'print' used as a noun * * * * we find this:

'4. A printed publication, more especially a newspaper or other periodical."

"What I have known

shall be as public as a print.--Sean. and Fl., Phillaster, 11. 4'.

"The prints, about three days after, were filled with the same terms.--Addison.'

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There is at least some relation between the verb and the noun, and the definition of the one sheds some light upon the definition of the other. But after all we know that the word 'print' has a varied meaning and its meaning in a particular law must of necessity depend upon the context of the whole act. So after all the real question is, what is the meaning of the word 'printed' in this law." * * * "

So the question to be determined in this instance is the meaning of the word 'printing' under the laws relating to the Commissioners of Public Printing.

Section 13783 provided for the classification of 'state printing'. The 'printing for the state' shall be divided into three classes, to-wit: the 'printing of all bills', 'the printing of all reports' shall constitute one class; the 'printing of the journal' and 'the printing of the general and local laws' etc., shall be the second class; and 'the printing of all blanks,' etc., shall constitute the third class. After providing for these three classifications the Legislature provided for the letting of contracts part of such law being as follows:

"Section 13784. Contracts for state printing let, when and how.—The commissioners of public printing shall, on or before the first day of July, 1923, and every two years thereafter, enter into a contract with some responsible person or persons for the printing of the several classes of matter required by the state, for the term of two years from and after the date of such contract. Said contracts shall be made separately for each class of printing, and any one person may contract for executing all the different classes, or they may be awarded to different persons." * * * "

It is to be noted that in both of these sections the subject matter is described as 'printing', no restrictions or explanations being made as to what the term shall cover. Section 13799 provided that the Commissioners shall examine the work executed and see that it is

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correctly printed in a suitable manner and in accordance with the requirements. Section 13785 provides that 'all printing under this chapter' shall be done at a certain place. Section 13786 provides in detail how 'printing' of the first class shall be done. Section 13787 provides in detail how 'printing' of class two shall be done. In other words the Legislature has carefully outlined in detail certain requirements deemed necessary, but in all these sections they refer to the subject as 'printing'. In all other sections of the article wherein 'print', 'printed', or 'printing' is referred to these words are used without restriction as to the mechanical process by which the result is to be obtained. So it seems apparent that the Legislature, when dealing with this chapter, clearly had in mind printing in its general term. As further evidence of this intention, I refer to the statutes authorizing the various Boards and Bureaus to 'print' their reports and the statutes authorizing and directing the various departments to order their 'printing' through the Commissioners of Public Printing, some of which are as follows:

Section 1656 requires the 'public printer' to place upon the fly leaf of each publication the citation to the statute upon the authority of which 'the same are printed'.

Section 5343 refers to the biennial report of the Commissioner of Finance and requires the report to be 'printed' and to be 'paid for as other public printing'.

Section 8294 authorizes the printing of blanks and forms under the direction of the commissioner of Fish and Game, and requires that 'the blanks and other printing * * * shall be printed under the direction of the Commissioners of public printing * * '.

Section 8566 requires that the report of the Eleemosynary Board be 'printed' and states that 'said reports shall be printed in sufficient number * * ' and that 'the cost of such printing shall be not greater than the rate agreed upon with the state printer * * '.

Section 9450 requires that the forms for the various school officers 'be printed under the direction of the Commissioners of Public Printing', and 'upon the terms as other public printing'.

Section 10023 authorizes the record of the State Board of Equalization and provides that 'said printed copies shall be disposed of as follows:' and that 'the cost of printing and distributing same shall be paid * * '

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Section 13790 provides for the 'printing for the executive department' and requires that the 'printing' be executed in a style consistent with good workmanship.

Section 12366 authorizes the publication of the report of the State Horticultural Society and provides 'the public printer shall' * * * 'print such number of reports' * * * as are deemed necessary by the proper authority.

Section 12465 authorizes the 'public printer' to 'print not to exceed 5000 copies' of the annual report of the State Poultry Board, which shall be 'paid for out of the appropriation for printing state reports'.

Section 12937 authorizes the printing of the report of the Board of Charities and Corrections, and requires 'this report shall be printed as a public document.'

So after an examination of the sections which authorize the printing of various reports, blanks and forms, we find that the printing is described in the same terms as the printing required to be contracted for in Section 13784. Accordingly, it would be impossible to consistently define the printing in Section 13784 without applying a similar construction upon the word 'printing' in the other sections of the statutes. Further, if it be held that 'printing' does not include engraving and lithographing, the various Boards, Bureaus and Departments are without the statute if they order any work lithographed or engraved. In other words, if 'printing' does not include engraving and lithographing, the Boards, Bureaus and Departments are without statutory authority in ordering or permitting their work to be lithographed or engraved. It is apparent that not only did the Legislature have the same thing in mind when dealing with all of these sections but it is further apparent that they were using the word 'printing' in its broadest sense.

The Legislature in creating the Commission of Public Printing had in mind but one thing, to-wit:- the concentration into one agency of the needs of the various boards, bureaus and departments for printing and stationery and to provide for one contract for each class of printing and each quality of stationery needed, and in this manner obtain the benefits of central purchasing. While at first this intent was not reached, as evidenced by the decision of the Supreme Court in the Wilder case, yet promptly after that decision, the legislature amended the statutes and accomplished

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this purpose. State v. Hackman, 282 S. W. 1.c. 1018. In this case the Supreme Court held that the amendment to what is now Section 13799 had accomplished that purpose. (Its intention was to include, so far as concerned the regulation of public printing, the executive division of the state government as recognized by the Constitution, and all of its departments and the subordinate branches thereof, * * *)

Just as certainly as it was the legislative intention to include every board, bureau, commission and department within the terms of the act, so it was the intent of the legislature to include every type of printing within the term 'printing', whether such printing be technically known as engraving, embossing, stereotyping, electro-typing, lithographing, or any other type of reproduction.

As to the holdings of other courts as to the import of the word 'printing' the Supreme Court of North Dakota, has held 'printing' to mean the impress of letters or characters upon paper or upon substance and that the term implies a mechanical act. Daily v. Berry, 178 N. W. 104. The Federal Court in the case of MacMillan Company v. King, 223 Federal 863 in considering the copyright act which secures to the owner of a copyright the exclusive right to 'print, re-print, publish, copy and vend the copyrighted work,' the court at page 867 held as follows:

"The defendant has neither leased nor sold his sheets. Printing I must regard as including typewriting or mimeographing, for the purpose of the act, and he has therefore printed them".

The Federal Court in the case of Ditson Company v. Littleton, 67 Fed. 905, held in construing the copyright law, that the word 'print' included the word 'lithograph' when associated with the words 'engraving, cut.'

The Supreme Court of the United States in 24 Law Edition 1046, construed the tariff law in relation to 'printed matters' and stated as follows:

"The goods in question were chromo-lithographs, consisting of landscapes, scenery and other figures, printed from oil-stones upon paper with one color printed on top of the other until the picture is finished. * * *

They are made by means of lithographic stones, and printed from the stones successfully one after the other according to the number of colors; * * *

And on page 1047 held:

"Equally with engraving, copper-plates and lithographs, they are printed and properly fall within the statutory designation of printed matter."

Accordingly under the recognized definitions of printed matter, print and printing, and taking into consideration the intent of the legislature as evidenced by the numerous statutes cited, but one conclusion can be reached and that is, that the 'printing' as used in our statutes was intended to cover every kind of printed matter regardless of the mechanical process used. The Commissioners of Public Printing are required by statute to let contracts for 'printing'. The "printing" of the bills, resolutions, communications, documents, pamphlets, and reports of the General Assembly; the "printing" of the journals of the House and Senate and appendixes thereto, the volumes of public documents, the general and special laws and joint resolutions; the "printing" of the blanks, circulars and other work necessary for the use of the executive departments are all required by the statutes to be done under "printing" contracts let by the Commissioners. The reports, records, forms, blanks, etc., of the various boards, bureaus, commissions and departments are by the statutes required to be "printed". No statute is to be found authorizing engraving, embossing or lithographing unless such work be included in the term "printing". Any engraving, embossing or lithographing ordered must be done under the "printing" contract; if not so done, there is no statutory authority authorizing or permitting engraving, embossing or lithographing, and expense incurred therefor is unauthorized.

Respectfully submitted,

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APPROVED:

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