

APPROPRIATION: In view of the effect of the decision in the case of State v. Thompson, printing and clerical help may be charged against the teacher-training appropriation for 1935.

September 18, 1935.

9-18



Hon. Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Mr. Smith:

This is to acknowledge your letter as follows:

"Will you please advise if I am authorized to pay bills for printing for Teachers-Training out of the appropriation for Teachers-Training made by the Legislature in Section 57, Page No. 113 of the Appropriation Laws?"

"It is my understanding the decision of the Supreme Court in the Thompson case holds that printing can be legally paid out of the appropriation made for Teachers-Training.

"Will you also please advise me what salaries, if any, can be paid out of this appropriation made for Teachers-Training?"

Laws of Missouri, 1935, page 113, Section 57, is the appropriation act relating to "Teachers Training in High Schools" and reads as follows:

"Teachers Training in high schools.--
There is hereby appropriated out of the State Treasury chargeable to the

general revenue fund, the sum of Thirty-Five Thousand Dollars (\$35,000.00), for the purpose of carrying into effect the provisions of Article VII, Chapter 57, of the Revised Statutes of Missouri, 1929, which provides for teacher-training work in high schools, provided, however, in the event the funds appropriated herein are insufficient to pay the apportionment in full as provided by law; they shall be pro-rated to schools in pro-rata proportion."

Section 9405, R. S. Mo. 1929, provides as follows:

"The appropriation provided for the instruction of pupils in the science and practice of rural school teaching and the teaching of elementary agriculture, may be expended in part for the inspection and supervision of such instruction by the state superintendent of public schools and by such person as he may designate, and the expense of such inspection and supervision shall be paid out of said appropriation on vouchers certified by the State superintendent of public schools. In accordance with the foregoing provisions of this section, the state superintendent of public schools is authorized to appoint an inspector of teacher-training in high schools and private and denominational schools at a salary of not to exceed twenty-five hundred dollars (\$2,500.00) per year, and the necessary traveling expenses while in the discharge of his duties."

It is to be noted that the appropriation act, supra, does not in detail express the purposes for which said sum may be expended, but refers to Article 7, Chapter 57, R. S. Mo. 1929. Reference must be had, therefore, to said article

and chapter to determine how the moneys appropriated may be expended. Nowhere in Article 7, Chapter 57, is it provided that any moneys may be expended for printing. However, Section 9405, supra, provides for the appointing of an inspector at a salary not to exceed twenty-five hundred dollars (\$2,500.00) per annum, and the necessary traveling expenses while in the discharge of his duties. But said section does not provide for any other specific expenditure of moneys appropriated for teacher-training courses. Said section does state, however, the following:

"The appropriation provided for * *
may be expended in part for the
inspection and supervision of such
instruction by the state superintend-
ent of public schools and by such
person as he may designate, * * *"

Thus, if any money may be expended from said appropriation act it would have to relate to inspection and supervision of such instruction or to pay the salary of the instructor.

The effect of the decision of the Supreme Court of Missouri, en Banc, in the recent case of State of Missouri v. Lorenzo D. Thompson, et al., (not yet reported) was that the former State Auditor, Thompson, was not liable when he charged the 1931 appropriation to teachers-training with certain items of printing, because the evidence in that case showed that such printing was necessary and connected with the furtherance of teachers-training. However, the court ordered judgment to be entered for the State on items of printing having no connection with teachers-training. We quote from the court's opinion:

"Under the application of the doctrine enunciated above the inclusion in printing bill "C" (count three of the petition) of the items admittedly having no connection with teachers' training was an obvious and inexcusable error, while all other items in suit were properly for the determination of the trial judge."

Sept. 18, 1935.

Therefore, in view of the effect of the decision of the above case, wherein the court permitted printing to be charged to the appropriation act of 1931, similar to the one under consideration, it is our opinion that the burden is upon you, as State Auditor, to determine as a matter of fact whether printing sought to be charged is connected with teachers-training and used in furtherance thereof. And, if you find as a fact that the printing is so used, then such may be charged against the 1935 appropriation act.

Our opinion as to charging of clerical help against said appropriation, would be the same as to printing.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney-General.

JLH:EG