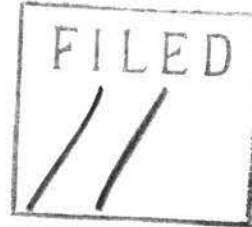


PRINTING: State Contract - Eleemosynary Printing for Old Age Pension under State Printing contract.

July 11, 1935



Honorable Dwight H. Brown  
Secretary of State  
Jefferson City, Missouri

Dear Sir:

We are in receipt of your letter, which is as follows:

"Hon. W. Ed Jameson, Chairman of the Eleemosynary Board, has taken up with the Commissioners of Public Printing, the question of buying the printing requirements in connection with the administration of the Old Age Pension act under the state's printing contract.

"While it would seem that this question has been answered in your opinion bearing date of May 17, 1934, in which you hold that requirements for the Blind Commission come under the contract, we are referring this matter to you for legal advice.

"Are the Commissioners of Printing to take care of the requirements in connection with the administration of Old Age Pensions under the contract?"

A. Section 13799, R. S. Mo. 1929, contains, among other things, these provisions:

#2- Honorable Dwight H. Brown

"All work to be executed for the executive departments shall be ordered through the commissioners of public printing, and a requisition shall be obtained in advance signed by the head of the department ordering such work, and said requisition shall be approved by the commissioners of public printing in the same manner as that provided in section 13802 of this law respecting the examination of accounts. The executive departments shall in this and other sections of this chapter be construed to mean both the heads of said departments and the subordinate branches thereof, the boards, commissions, bureaus and officers appointed by the heads of said departments, except the boards of educational and eleemosynary institutions of the state."

The exception of "the boards of educational and eleemosynary institutions of the State," gives rise to the question under consideration.

The Supreme Court has said:

"The evident purpose of this statute (Public Printing Act) is to promote the economical administration of that branch of the public service to which it has reference." (State v. Hackmann, 232 S.W. 1007, 1009.)

Certainly the Legislature was as much concerned in promoting the economical administration of the eleemosynary institutions as of the service rendered through other executive departments and their subordinate branches. But at the time of the enactment of said Section 13799, each of the several eleemosynary institutions of the State had a separate board which conducted its administration from the place where the institution was located. It was evidently thought by the Legislature that the small amount of printing required by each of the institutions

#3 - Honorable Dwight H. Brown

could be procured locally without jeopardizing needful economies. The situation just suggested, which no longer exists, no doubt caused the Legislature to except the boards of the eleemosynary institutions from the provisions of the Public Printing Act, and that, I think, should be kept in mind on construing the statute.

B. By the Act of 1921 (Laws Mo. 1921, page 380), the separate boards of the State Eleemosynary Institutions were abolished and those institutions were put under the care, management and control of one board of managers consisting of six persons. The act was carried forward in the revision of 1929 as Article I, of Chapter 40. Section 8560 found in that Article, defines the State Eleemosynary Institutions as follows:

"The state hospital No. 1, at Fulton, the state hospital No. 2, at St. Joseph, the state hospital No. 3, at Nevada, the state hospital No. 4, at Farmington, the Missouri state sanatorium, at Mount Vernon, and the Missouri state school, at Marshall, are hereby declared to be state eleemosynary institutions of the state of Missouri within the meaning of the provisions of this article."

The statute by specifically enumerating certain state institutions as the Eleemosynary Institutions of the State necessarily excludes the idea that any other institution in the State may be classed or recognized as a State Eleemosynary Institution. and it is only while engaged in the care, management and control of the institutions so specifically named that the individuals comprising the Board of Managers act as the Board of Managers of the State Eleemosynary Institutions. These same individuals administer the Blind Pension Law, but while so doing they act as the Commission for the Blind (see opinion of Attorney General with reference to printing for the Commission for the Blind, rendered May 17, 1934, at the request of the Secretary of State.)

C. The title to the Old Age Assistance Act recites that the act, among other things, is "to create the

#4 - Honorable Dwight H. Brown

Board of Managers of the Eleemosynary Institutions as a State Board, to administer this Act and to fix the compensation, powers and duties thereof."

Section 1 of the Act provides:

"When used herein, the term 'State Board' shall mean the Board of Managers of the Eleemosynary Institutions."

Section 2 provides:

"The State Board shall administer the provisions of this Act and may appoint such clerical and office assistance, and such deputies as may be appropriated for by the General Assembly. Each member of the State Board shall receive not to exceed \$50.00 per month for his services as such in addition to all other compensation provided by law."

Section 6 provides:

"Old Age Assistance may be granted only to an applicant who, \* \* \* is not at the date of making application or of receiving aid an inmate of any prison, jail, insane asylum or any other public reform or correctional institution."

From the foregoing, and other provisions of the Act, the following is to be noted:

1. When the six individuals entrusted with the care, management and control of the Eleemosynary Institutions of the State are so engaged, they are the Board of Managers of the Eleemosynary Institutions when they are administering the Old Age Assistance they are the "State Board".

#5 - Honorable Dwight H. Brown

2. The powers and duties of the State Board are separate, distinct and wholly disassociated from those of the Board of Managers of the Eleemosynary Institutions.

3. No inmate of any eleemosynary institution is eligible for old age assistance; the Act does not contemplate the segregation of persons entitled to or receiving such relief in any institution whatsoever.

4. The members of the Board of Managers of the Eleemosynary Institutions receive a specified separate compensation for their services as members of the State Board.

In other words, the Legislature created from the personnel of the Board of Managers of the Eleemosynary Institutions a new board to be known as the State Board, with powers and duties in no way related to the care, management and control of the Eleemosynary Institutions of the State. This new board is very clearly not within the exception of Section 13799, namely: "except the boards of educational and eleemosynary institutions of the state."

In an opinion heretofore rendered by this office of date of May 17, 1934, to the Secretary of State with reference to the duties of the State Printing Commission, who did the printing for the Missouri Commission for the Blind, the following was stated:

"It will be observed that the duties and powers of the Commission were in nowise changed by the enactment of 1933. By Section 8838, as re-enacted, the name 'Missouri Commission for the Blind' is retained. Instead of the members of the Commission being appointed by the Governor, with the consent of the Senate, the appointments are made by the Legislature so that so long as there are members of the Board of Managers of the State Eleemosynary Institutions there will also be members serving as the Missouri Commission for the Blind. The same persons occupying two entirely

#6 - Honorable Dwight H. Brown

and unrelated offices with separate and distinct duties to be performed as to each office.

"The situation here is very similar to Section 18 of Article X of the Constitution of the State of Missouri, which provides that there shall be a State Board of Equalization in this state consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney General. As to whether or not such state officers were ex-officio members of the State Board of Equalization, the Supreme Court of this State, in State ex rel. McGrath v. Walker, 97 Mo. 162, 163, said:

'It will thus be seen from the provisions of the constitution just noted, that the state officers mentioned in section 24, supra, are not ex-officio members of the state board of equalization, that is, their membership of that board is not the result of their holding certain state offices; but is the result of their appointment to such board by an independent and distinct provision of the constitution. 1 Burrill Law Dict., title ex-officio. But for such independent provision they would not have been members of such board.'

C.

State Eleemosynary Institutions

Section 8560, Revised Statutes of Missouri for 1929, reads:

The state hospital No. 1, at Fulton,  
the state hospital No. 2, at St. Jo-

#7 - Honorable Dwight H. Brown

seph, the state hospital No. 3 at Nevada, the state hospital No. 4 at Farmington, the Missouri state sanitorium at Mount Vernon, and the Missouri state school at Marshall, are hereby declared to be state eleemosynary institutions of the state of Missouri within the meaning of the provisions of this article.'

By specifically defining certain state institutions to be eleemosynary institutions, it necessarily follows that there are no other institutions in this state that may be classed or recognized as State Eleemosynary Institutions. An eleemosynary institution is generally defined as an institution, either public or private, devoted or dedicated to extending charity or giving alms.

Words and Phrases, Vol. 3, p. 2343  
Words and Phrases, 3d Vol. (3d Series), p. 164."

And it was there held that the State Printing Commission was the authorized agency through whom the printing for the Blind Commission should be handled.

The act creating the Board charged with the duty of administering the old age pensions, creates a Board. The Board is named by the Legislature. It is a separate board from the eleemosynary board, and although the individual members who serve on this Board are the same individuals who sit on the eleemosynary board, the Board itself is distinct and separate from the eleemosynary board, and the State Printing Commission is not governed with respect to the printing required for the old age pension board by the restrictions or exceptions that pertain to the printing on behalf of the eleemosynary board.

#8 - Honorable Dwight H. Brown

CONCLUSION

Our opinion is that the printing that may be required by the old age pension board should be procured under the direction and supervision of the State Printing Commission.

Very truly yours,

DRAKE WATSON  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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