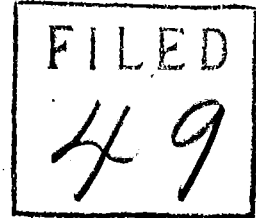


GENERAL ASSEMBLY: Contingent expense appropriation of 63rd General Assembly limited to expenses of that Assembly.



October 30, 1946

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Honorable R. J. King, Jr.  
Chairman, Appropriations Committee  
House of Representatives  
Sixty-Third General Assembly  
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"In view of the paper shortage, the Midland Printing Company has advised me that we might be able to get a carload of paper before the first of the year. It is their opinion that it will be very difficult to secure any amount of paper after the first of the year.

"Under these circumstances, I would like to have an opinion from your office as to whether or not it will be legal for the 63rd General Assembly to purchase paper which they will not use, in order to secure a supply for the 64th General Assembly."

Before proceeding with consideration of the precise legal question which you have presented, we wish to point out that a change in the procedure relative to the purchase of the public printing of the state has been effected by reason of the enactment of S.C.S.S.B. No. 297 of the 63rd General Assembly, and that it is only under particular circumstances that future purchases of paper stock will be made by the State of Missouri.

We direct your attention to a portion of the act mentioned, particularly that portion of Section 76 thereof reading as follows:

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"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. \* \* \*"  
(Emphasis ours.)

Also, Section 83 of the same Act, reading as follows:

"The supply of paper now on hand in the office of the secretary of state shall be transferred to the purchasing division. The purchasing agent shall require state printing contractors to use such paper in the performance of printing for the state until the supply now on hand is exhausted or until September 1, 1946, whichever shall occur first. Thereafter, the contractor shall furnish the paper as a part of the complete printing job unless the purchasing agent shall determine that it would be to the advantage of the state to make separate contracts for the paper." (Emphasis ours.)

From the foregoing, it is clear that no purchases of paper stock are to be made subsequent to September 1, 1946, except after the determination by the State Purchasing Agent that it will be to the advantage of the state to contract for the paper separately.

These procedural changes relative to the public printing of the state are pointed out for your information, as it is a matter which will recur with each session of the General Assembly.

Section 23 of Article IV of the Constitution of 1945 reads, in part, as follows:

" \* \* \* Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."  
(Emphasis ours.)

Also, Section 28 of the same Article reads, in part, as follows:

"No money shall be withdrawn from the state treasury except by warrant drawn in accord-

ance with an appropriation made by law, nor shall any obligation for the payment of money be incurred unless the comptroller certifies it for payment and the state auditor certifies that the expenditure is within the purpose of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it. \* \* \*  
(Emphasis ours.)

Looking to the appropriation for the contingent expense fund of the 63rd General Assembly, which is found as a part of House Bill No. 993, we find the title thereof to read as follows:

"APPROPRIATIONS: Money for the pay of salaries of members of the Sixty-third and Sixty-fourth General Assembly; for contingent expenses of the Sixty-third General Assembly including salaries of elective and appointive officers of the Sixty-third General Assembly; for salaries and expenses of members and employees and clerical hire of the Committee on Legislative Research; and for salaries, etc., of the Missouri Commission on Interstate Cooperation, for the period beginning July 1, 1946, and ending June 30, 1947." (Emphasis ours.)

Section 8.013 of the Appropriation Act reads as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Sixty-five Thousand Dollars (\$65,000.00), or so much thereof as may be necessary, to pay the contingent expenses and to pay the salaries of elective and appointive officers and other employees of the 63rd General Assembly for the period beginning July 1, 1946 and ending December 31, 1946, as follows:

"Contingent expenses of the Senate .....	\$25,000.00
"Contingent expenses of the House.....	40,000.00
Total .....	\$65,000.00"

(Emphasis ours.)

Reading the Appropriation Act in the light of the constitutional requirements quoted supra, it appears that the determi-

nation of your question will depend upon whether or not the contemplated expenditure is one which might be classed as a "contingent expense" of the 63rd General Assembly. If it be found to be such, then it is within the purview of the declared purpose of the appropriation; if not, the proposed expenditure would be violative of the constitutional provisions.

The word "contingent" is defined in Webster's New International Dictionary, 2nd Ed., as follows:

1. Liable, but not certain, to occur; possible.
2. Happening from unforeseen causes, or subject to unforeseen conditions; accidental or incidental; chance.
3. Dependent (upon a preceding event or situation); subject to something else; conditioned or conditional; as, peace contingent upon compliance with the proffered terms.

\* \* \* \* \*

7. Law. Dependent for effect on something that may or may not occur; as a contingent estate or legacy."

In addition to the common meaning of the word, the phrase "contingent expense" has acquired a well-settled technical meaning in legal phraseology. We quote from *Dunwoody v. The United States*, 22 Court of Claims Rep. 269, l. c. 280:

\* \* \* \* \* The adjectives contingent, incidental, and miscellaneous, as used in appropriation bills to qualify the word expenses, have a technical and well-understood meaning; it is usual for Congress to name the principal classes of expenditure which they authorize, such as clerk hire, fuel, light, postage, telegrams, &c., and then to make a small appropriation for the minor and unimportant disbursements incidental to any great business, which cannot well be foreseen and which it would be useless to specify more accurately. For such disbursements a round sum is appropriated under the head of 'contingent expenses,'  
\* \* \* \* \*

Also, in *Johnson et al. v. Donham et al.*, 64 S. W. (2d) 374, we find the following definition of the term:

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" \* \* \* that is, such expenses as might ordinarily be expected to arise in the conduct of the office, but which might not occur. \* \* \* "

Applying these definitions of the term "contingent expense" to the proposed expenditure for paper, which, as is stated in your letter of inquiry, will not be used by the 63rd General Assembly, it becomes apparent that such proposed expenditure is not within the purpose of the appropriation from which payment is to be made therefor.

#### CONCLUSION

In the premises, we are of the opinion that the 63rd General Assembly may not purchase a supply of paper which such General Assembly has ascertained will not be used by it, but which is proposed to be purchased anticipatory of the needs of the 64th General Assembly, for the reason that such proposed expenditure is not a "contingent expense" of the 63rd General Assembly, and is therefore not within the purpose of the appropriation from which payment is to be made.

Respectfully submitted,

WILL F. BERRY, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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