

## Opinion No. 43-4289

May 19, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mrs. Cecilia Tafoya Cleveland, Secretary of State, Santa Fe, New Mexico

We have your letter of May 18, 1943, in which you set out certain facts substantially as follows:

The current appropriation bill provides an item for "Printing Emergency Laws". Previous appropriation bills have carried exactly the same item. You further state that in the past additional clerical help has been hired or the Secretary of State's office has paid their regular staff additional money for overtime when additional help could not be obtained for preparing typewritten copies of these bills for individuals requesting such and charging statutory fees for such services, which were deposited in the general fund pursuant to the statute.

In view of the above you request an official opinion of this office concerning whether or not typing of emergency laws may be charged against the above mentioned account. I call your attention to the following quotations taken from reported cases:

"Typewriting or mimeographing constitutes a "printing," within the meaning of the copyright statutes. *Macmillan Co. v. King*, D. C. Mass., 223 F. 862, 867."

"Under Gen. St. 1901, Section 1076, providing that, if there is no newspaper printed, printed notices must be conspicuously posted, notices printed on a typewriter are sufficient to meet the statutory requirements. *State v. City of Oakland*, 77 P. 694, 69 Kan. 784."

"The case of *Wiggins v. Kerby*, 38 P. (2d) 315, 319, 44 Ariz. 418 states: Whether the typewritten, mimeographed copies of the laws in question, which respondent caused to be made and distributed, **constitutes a printing within any sense of that term it is unnecessary to determine**, for even though it does, it is perfectly plain that it was not a printing within the meaning of the Legislature, as expressed either in the above excerpt from section 23, or in the expression "printing the session laws," as used in the general appropriation bill of 1933. There cannot exist the slightest doubt as to what the Legislature had in mind when it used the term "printer" in the first and "printing" in the second. The session laws have been printed and published in ordinary convenient book size and form and carrying an index since Arizona became a state and long prior thereto, and no question of any nature can arise as to the fact that the members of the Legislature had this in mind in both of these instances."

Under the same reasoning as followed by the Arizona Supreme Court the opposite result is reached in this instance. There it was clear that even though the word printing

includes typing the Legislature did not contemplate typing or mimeographing. In this instance the Legislature has consistently over a period of Legislative Sessions appropriated a much larger amount than was actually needed by a printer to print in a bound volume the emergency laws and a sufficient amount was appropriated to cover items such as printing the laws by typing, which it is necessary to also do under our statutes.

In view of the above it is my opinion that expenses incurred as a result of typing emergency laws are a proper amount to be charged against the above mentioned fund.

Hoping the above sufficiently answers your questions, I am

By HARRY L. BIGBEE,

Asst. Atty. General