

APPROPRIATIONS:
EXTRADITION OF
FUGITIVES:

Governor's appropriation to enforce the laws may be used to pay expense of extraditing criminals.

December 14, 1942

12-15



Honorable Forrest C. Donnell
Governor
Jefferson City, Missouri

Dear Governor Donnell:

On December 9, 1942, you requested the opinion of this office upon the following:

"May the expenses, incurred in the present biennium at a time when there were not sufficient funds to pay said expenses remaining in the appropriation for the present biennium for the apprehension of criminals, of some messenger to whom the governor has issued his warrant, under the seal of the state, and who has received the fugitive named in the warrant and conveyed such fugitive to the county in which an offense was committed, or is by law cognizable, be paid out of the appropriation found on page 125 of the Laws of Missouri 1941, which appropriation reads in part as follows:

'D. Operation:

General expense consisting of communication, printing and binding, engraving, lithographing, travel within and without the State, of the Governor, his secretary, and such other employees as the Governor may deem necessary to make

investigations and procure information, to enforce the laws and for any other proper expense,
* * * * *

Section 6 of Article V of the Constitution of Missouri provides as follows:

"The Governor shall take care that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State."

Article 9 of Chapter 30, R. S. Missouri, 1939, requires the governor to issue his warrant for the extradition of a fugitive, directed to some messenger, and commanding him to deliver such fugitive to the sheriff of the county in which the crime was committed. It is further provided that the governor shall ascertain the expenses which may accrue, and certify to the same, which shall be paid out of the state treasury, as other demands against the state.

Section 19 of Article X of the Constitution of Missouri, in part, provides:

"No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; * * * * and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. * * * * "

This provision has been held to be self-enforcing. State ex rel. v. Holladay, 66 Mo. 385.

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The pertinent portions of the Appropriation Act of 1941 bearing upon the question asked are fully set out in your request. It is noted that the act provides for "General expense consisting of * * * travel within and without the State, of the Governor, his secretary, and such other employees as the Governor may deem necessary to make investigations and procure information, to enforce the laws and for any other proper expense, * * *"

Appropriation acts are strictly construed, and if any doubt arises out of the use of the words therein, such doubt is resolved in favor of the public by limiting the expenditures of the appropriation to the express terms to which it is made. State ex inf. Harvey v. Missouri Athletic Club, 261 Mo. 576, l. c. 598, 170 S. W. 904; Meyer v. Kansas City, 18 S. W. (2d) 900, 325 Mo. 200, l. c. 203. In other respects, the usual rules of statutory construction apparently govern. State ex rel. v. Dierkes, 214 Mo. 578, 113 S. W. 1081; State ex rel. v. Weatherby, 344 Mo. l. c. 854, 129 S. W. (2d) 887.

The term "and for any other proper expense" adds little to the act. These words refer to the items set out above them and do not include an item differing in character from the specific items the term follows. In State ex rel. v. Dierkes, 214 Mo. 578, l. c. 591-592, 113 S. W. 1081, the Supreme Court ruled:

" * * * Relator contends that the words 'other expenses of House of Delegates,' are sufficient to authorize the payment of this money out of the unexpended balance in that fund. The whole clause of the ordinance reads:

'Publishing proceedings, printing, stationery, office expenses, furniture, rent of telephone and other expenses of House of Delegates....\$8,000.00.'

"To our mind the rule of ejusdem generis fully applies here. The term 'other

expenses' means expenses of the character theretofore mentioned in that clause of the appropriation act and does not include an appropriation for work of the character performed by re-lator. To hold that it did include such would be to nullify the provisions of section 14, article 5, of the city charter, supra." (Underscoring ours.)

One of the cardinal guides in statutory construction is the ascertainment of the legislative intent from the words employed in the act, and placing upon such words their plain and rational meaning, and the promotion of the manifest purpose of the statute, considered historically. *Artophone Corporation v. Coale*, 155 S. W. (2d) 343, 1. c. 347. This doctrine of legislative intent applies to appropriation acts. *State ex rel. v. Weatherby*, 344 Mo. 1. c. 854, 129 S. W. (2d) 887.

The general assembly undoubtedly took cognizance of the governor's duty to enforce the criminal statutes, and to secure the return of fugitives for trial in the criminal courts, by providing funds for the enforcement of the laws. The legislative intent, we believe, is that such portion of the funds set aside and adjudged necessary by the governor be used to enforce the criminal laws by securing the return for trial of fugitives, thus making it possible for the chief executive to properly discharge the obligations placed upon him by the Constitution and statutes of our state. After making provision for traveling expenses of the governor and certain of his employees to make investigations and procure information, the writers of the act inserted a comma before the words "to enforce the laws." The use of the comma indicates to the writer that the latter term is not restricted by the words used immediately before the comma, but that the two word groups are independent of each other. Thus, the act authorizes the expenditure of state funds by the governor to enforce the criminal laws, of which the extradition of fugitives is a part.

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CONCLUSION

It is, therefore, the opinion of this department that extradition expenses incurred in the present biennium at a time when there were not sufficient funds to pay said expenses remaining in the present appropriation for the apprehension of criminals, may be paid out of the appropriation set out at page 125 of the Laws of Missouri, 1941.

Respectfully submitted

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APPROVED:

ROY McKITTRICK
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