

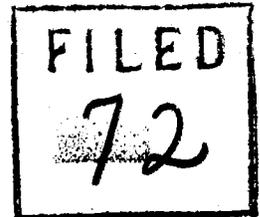
ADMINISTRATOR, NATIONAL COUNCIL
OF DEFENSE:

Re: Disposition of papers and
reports to the Governor.

June 22, 1945

7/19

Mr. J. A. Potter, Administrator,
Missouri State Council of Defense
Central Trust Building
Jefferson City, Missouri



Dear Mr. Potter:

We are in receipt of your letter of June 14, 1945, reading as follows:

"The Missouri State Council of Defense will close its State office in Jefferson City permanently on June 30, 1945. A full and complete report of its operations from January 17, 1941 to December 31, 1944 was submitted to the Governor of Missouri in January, 1945.

"All bills have been paid and the small cash on hand will be returned to the State Treasurer, and I desire your opinion on the following questions:

"1. What disposition shall I make of our files of paid invoices and our record book of expenditures against our appropriations?

"2. What report, if any, financial or otherwise should be made by me when the office is closed on June 30, 1945?"

The authority for the creation of the State Council of Defense is contained in Section 15086.2, Laws 1941, p. 669, which section reads as follows:

"The Governor is hereby authorized and

June 22, 1945

empowered in time of emergency or public need in the Nation or the State to create by proclamation a State Council of Defense, hereinafter designated as the 'Council,' for the general purpose of assisting in the coordination of the State and local activities related to National and State defense. Whenever he deems it expedient, the Governor may, by proclamation, dissolve or suspend such Council or reestablish it after any such dissolution or suspension."

The section which further provides for the "Council" is Section 15086.3, Laws 1941, page 669, which section reads as follows:

"(a) The Council shall consist of not less than fifteen members appointed by and holding office during the pleasure of the Governor. The Governor shall serve as chairman of the Council. He shall designate one of the members of the Council as vice-chairman. Appointment of members shall be made without reference to political affiliation and with reference to their special knowledge of industry, agriculture consumer protection, labor, education, health, welfare, or other subjects relating to National or State defense."

These are the only statutory provisions relating to the Council. They do not make provisions for disposition of records or files. The members of the Council are not required by the act creating the Council to file any records with any state department or officer. Ordinarily, vouchers for disbursements of public moneys are filed in the office of the State Auditor. If your papers were of the type usually kept by the State Auditor we think the placing of them with the State Auditor would be the proper disposition to make of them at this time. However, your first question relates to the disposition of paid invoices and

the record book of expenditures against appropriations. These do not fall within the type of papers kept by the office of the State Auditor and the statute does not provide for their disposition.

The statute quoted above places the authority of empowering and dissolving the State Council of Defense in the Governor of the State. All of the provisions of the statute point to the Governor as the agent controlling the activities of the Council and he is made responsible therefor.

Section 3631 R. S. Mo., 1939 provides as follows:

"If any private person shall have or obtain possession of any books, records or papers, appertaining to any public office, he shall deliver them to the officer entitled to the same."

We have found no general law in Missouri or in any other jurisdiction which would be of aid in determining the disposition of the records under consideration. However, under Section 3631 quoted above, private persons are to deliver records pertaining to public offices to the officer entitled to the same. Since the Governor is the officer mentioned in the statute as having control of the Council, and, more important, since he can reestablish the Defense Council and might desire to have the records transferred to it or such reestablishment, we think it is reasonable to say that he is the officer entitled to the records under Section 3631, R. S. Mo., 1939.

Section 12995, R. S. Mo. 1939, is as follows:

"He shall reside and keep his office at the seat of government; have the safe-keeping of the seal of state, and of all public records, rolls, documents, acts, resolutions and orders of the general assembly; keep a register of all commissions issued, the official acts of the governor, and, when necessary, attest the same."

Should the Governor not have adequate facilities for the safe-keeping of the records in question, we think, under the above section, that it would be proper for him to deposit them in the office of the Secretary of State.

June 22, 1945

CONCLUSION

It is, therefore, the opinion of this department that your paid invoices and record book of expenditures against appropriations should be sent to the Governor of Missouri, who may then deposit them in the office of the Secretary of State, if he so desires, and that any financial or other report which you might make should be made to the Governor of Missouri.

Respectfully submitted,

Smith N. Crowe

SMITH N. CROWE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

SEN:rw