

RECORDS, BOUND: Record sheets assembled in a loose-leaf binder equipped with a locking device would be considered to be a "bound" record.

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4-21-51

Honorable Stanley Wallach
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Clayton, Missouri



Dear Sir:

Your recent request for an official opinion has been assigned to me to answer. You thus state your opinion request:

"This office will deeply appreciate it if you would be kind enough to let us have the opinion of your office on the following point:

"Sec. 59.410 R.S.Mo. 1949 provides: Wherever the statutes require deeds, mortgages, conveyances, deeds of trust, bonds, covenants, documents, marriage contracts, certificates of marriage, commissions, official bonds, statements, records, plats, surveys, schedules, papers, patents, or other instruments of writing to be recorded, the making of photographic copies of such deeds or other instruments of writing shall be deemed recording within the meaning of this chapter. Such photographic copies shall be bound, paged and indexed wherever it is so provided for deeds or other instruments recorded by hand, and such photographic copies when bound together shall be deemed record books within the meaning of this chapter.

"When photographing recorded instruments on individual sheets it is customary to assemble the sheets in loose-leaf binders and then bind them in book size. This has proved to be an expensive procedure.

Honorable Stanley Wallach

"In your opinion, would a loose-leaf binder equipped with a locking device be considered a bound record as referred to in the foregoing section?"

In the above you are asking us whether record sheets assembled in "a loose-leaf binder equipped with a locking device" could be considered a "bound record" as the term "bound record" is used in Section 59.410, RSMo 1949. Our first consideration, therefore, must be the meaning of the term "bound record."

Webster's New International Dictionary, in its definition of the word "bound" states: "Enclosed in a binding or cover, as, a bound volume." The same dictionary in its definition of the word "bind" states: "To sew or fasten together and enclose in a cover; as, to bind a pamphlet, to bind a book."

In the case of John Kitchen, Jr., Co. v. Levison, 188 Fed. Rep., 658, the Court was engaged in determining whether a particular association of paper sheets could be said to be "bound" in a book. In its consideration of that matter, the Court stated, l.c. 661, 662:

"* * * But, after all is said, it nevertheless is apparent that the appellant's carbon sheets are bound in the book. It is true that they are not permanently bound, and that they may readily be removed; but the appellee's claims do not in terms call for a permanent binding. The appellant's book is made up of recording leaves, each divided into three sections by vertical lines of perforations, as are those of the appellee. The leaves and cover of the book are bound together by staples. The double carbon sheets are attached at one end to a cardboard strip with notches opposite the staples to allow of their being inserted in the book. They are pushed in underneath the cover of the book, and between and on either side of the staples. In the appellant's patent which was issued on February 9, 1909, it is said:

Honorable Stanley Wallach

"The pressure on the points 11 of the stub strip, after the latter has been inserted, will hold the carbon permanently in position."

"And again it is said:

"They are held firmly in place just as though they had been bound in the book originally."

"According to the evidence, there are various known methods of binding, as by binding by a clamp, by glue or paste, or by pressure, as well as by sewing or stitching. In the appellant's patent no specific means for binding or holding the carbon sheets in the recording sheets is described. The claims are broad enough to cover any binding means. The patentee of the appellant's patent, testifying as to the Doughty patent, in which the carbon and stubs of the recording sheets are held in a wire frame which is attached to the cover of the book, said that the carbon sheet in that patent is 'bound in the book' by a spring. We think that it is immaterial that the carbon sheets in the appellant's patent are detachable from the book, or that they are bound in the book after the book is made up. They are to all intents and purposes, when the book is in use, bound in the book within the meaning of the appellee's claims."

In view of the definitions given above of the meaning of "bound" and "bind," and of the case cited, it is the opinion of this department that record sheets assembled in a loose-leaf binder equipped with a locking device would be considered a bound record.

Honorable Stanley Wallach

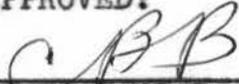
CONCLUSION

It is the opinion of this department that record sheets assembled in a loose-leaf binder equipped with a locking device would be considered to be a "bound" record.

Respectfully submitted,

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APPROVED:



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HPWab