

1967 O. A. G.

OFFICIAL OPINION NO. 65

December 29, 1967

**DEPARTMENT OF ADMINISTRATION—LEGISLATIVE  
COUNCIL—Duty of Department to Let Printing  
Contracts for Council.**

Opinion Requested by Mr. Edison L. Thuma, Executive Director, Legislative Council

You have asked whether the Legislative Council may, pursuant to chapter 50 of the 1967 Ind. Acts, Burns §§ 34-601—34-612, creating the Council, “arrange for” the printing needs, supplies and equipment of the General Assembly “without going through the Department of Administration.”

In my Official Opinion No. 37 of 1966, 1966 O.A.G., p. 251, I advised your predecessor, the Legislative Advisory Commission, that it could require the Department of Administration to supervise its printing and let printing contracts for that Commission. The only duties relating to printing which were given to the Legislative Advisory Commission by statute were superintending the printing of the House and Senate Journals, Acts 1945, ch. 88, § 15, Burns § 60-1715, and assisting the Secretary of State in preparing enrolled acts for printing and publication, Acts 1945, ch. 88, § 16, Burns § 60-1716.

In 1966 O.A.G. 251, *supra*, I considered the effect of § 6 of the “Public Printing Act,” Acts of 1941, ch. 124, Burns § 63-1643, § 5 of the Financial Reorganization Act of 1947, Ind. Acts 1947, ch. 279, as last amended by Ind. Acts 1961, ch. 83, § 1, Burns § 60-1805, and §§ 2 and 8 of the Administration Act of 1961, Ind. Acts of 1961, ch. 269, Burns §§ 60-102 and 60-108. The 1941 Act created a board of public print-

## OPINION 65

ing. Section 6 of the 1941 Act, Burns § 63-1643, then read as follows:

“All the legislative printing, lithographing, binding, stationery, printing materials, and office supplies shall be furnished under the supervision of said board and shall be paid for out of the legislative appropriation.”

I pointed out that although the powers given to the former board of public printing by the 1941 Act were transferred by the 1947 and 1961 Acts to the Department of Administration, the Administration Act of 1961 creating the latter is ambiguous in that it can be interpreted “either to require the Department to supervise the printing of the Commission, or to forbid the Department to take any action at all concerning any activity of the Commission.” 1966 O.A.G. at 262. I then stated:

“The proper body to resolve any ambiguity in a statute, particularly a statute which concerns the functioning of the General Assembly, is the General Assembly itself. . . .” 1966 O.A.G. at 262.

The Legislative Council created by ch. 50 of the 1967 Acts is designated by section 5 of the Act, Burns § 34-605, to be

“the service and administrative agency for the General Assembly to assist it in the performance of its constitutional responsibilities as a separate and independent legislative branch of state government.”

Among the duties required of the Council by section 5 is

“to arrange for the obtaining of the printing needs and supplies and equipment of the General Assembly. . . .”

*Webster, New World Dictionary*, (College ed. 1959) defines the verb “arrange” when used with the word “for,” to mean “to make plans; provide or prepare.”

The General Assembly thus resolved the ambiguity in previous law concerning legislative printing by designating the Legislative Council, rather than the Department of Ad-

ministration, as its agent to obtain printing for the General Assembly.

Chapter 50 of the 1967 Acts was approved on March 4, 1967, and contained an emergency clause making it effective immediately from and after passage. However, chapter 342 of the 1967 Acts, approved March 11, 1967, also relates to legislative printing. Since this Act has no emergency clause, it became effective July 26, 1967, the time at which the 1967 Acts were distributed. See 1966 O.A.G. 142, 146. This Act amends § 6 of the 1941 Public Printing Act, Burns § 63-1643, to read as follows:

“All the legislative printing, lithographing, binding, stationery, printing materials and office supplies shall be furnished under the supervision of said department and shall be paid for out of the legislative appropriation; Provided, however, That the department shall be permitted to enter into a second contract, in addition to the contract signed between the lowest and successful bidder and the State of Indiana, if, in the opinion of the majority of the committees on Rules and Legislative Procedures of the House of Representatives and the Senate of the Indiana General Assembly, such a contract would aid in the performance of the duties of the Indiana General Assembly; Provided, further, That the secondary contract, provided for herein, shall be acceptable only if the contractor under the secondary contract agrees in the contract that the prices for such printing shall not exceed the price of the successful first bidder.”

The amendment substituted the word “department” for the word “board” and added the provisos.

It is a familiar rule of law that of two acts passed by the same session of the Legislature which cannot be harmonized, the later enactment prevails. *Newbauer v. State*, 200 Ind. 118, 161 N.E. 826 (1928); 1 *Sutherland, Statutory Construction*, § 2020 (3d ed. 1943); 1965 O.A.G., p. 46. When both were approved by the Governor, as here, the date of his approval is the date which determines which of the two acts

## OPINION 65

is later enacted. 1965 O.A.G. at 54, *supra*. In this case, the amendment to the Public Printing Act was approved seven (7) days later than the act creating the Legislative Council. Therefore, the amendment to the Public Printing Act must prevail to the extent to which the two acts cannot be reconciled. (The Legislative Council Act did govern from and after its effective date until the date the 1967 amendment to the Public Printing Act became effective. 1 *Sutherland, Statutory Construction, supra*.)

The fact that the word "board" was changed to the word "department" by the amendment to § 6 of the 1941 Act can, in my opinion, have only one meaning. It must mean that the General Assembly was well aware that the general powers of the former board of public works had been transferred to the Department of Administration, and that the General Assembly intended that the legislative printing duties of the board be transferred to the Department in spite of any ambiguity in the Administration Act of 1961 indicated in my 1966 O.A.G., p. 251. The first proviso not only indicates clearly that the Department of Administration shall let the first as well as a second contract, but specifically gives the power of authorizing printing, in the case of a second contract, to the Committees on Rules and Legislative Procedures of the House of Representatives and the Senate of the Indiana General Assembly. The wording of the changes in § 6 of the Public Printing Law made by the amendment of 1967 clearly shows, in my opinion, that the General Assembly did not intend that any intervening statute (in this case, the act creating the Legislative Council) which modified § 6 of the Public Printing Act prior to the enactment of the amendment should apply. (For the application of the "intervening statute" rule, see 1966 O.A.G., p. 72.

Therefore, it is my opinion that the General Assembly has, by amending section 6 of the Public Printing Act after the date of approval of the Legislative Council Act, required the Department of Administration to supervise the supplying of legislative printing, lithographing, binding, stationery, printing materials and office supplies. The Legislative Council may make "arrangements" for such printing through the Department of Administration only.