

Opinion No. 37-1704

July 8, 1937

BY: FRANK H. PATTON, Attorney General

TO: Mr. David W. Carmody District Attorney Santa Fe, New Mexico

{*136} I have your letter of July 7th wherein you have requested an opinion upon the validity of Chapter 168 of the Session Laws of 1937, which is commonly referred to as the public printing bill.

You have submitted with your letter a transcript of the proceedings of the Senate in connection with this bill and, briefly, these proceedings show quite definitely that this Act was never voted upon by the Senate and never passed the Senate.

However, I have given careful consideration to the cases of Kelly vs. Marron, 21 N.M. 239, and Smith vs. Lucero, 23 N.M. 411, and the substance of the holdings in these two cases is that a properly authenticated bill by the officers of the legislature, enrolled and engrossed and filed with the Secretary of State, becomes the law and resort cannot be had to the Journal for a determination of its validity, except in cases where a bill is passed by the legislature over the veto of the Governor. In that event, resort may be had to the Legislative Journal to determine if either house passed the bill over the veto.

It is, therefore, my opinion that under the holdings of the Supreme Court this printing bill is now the law of this state.

You have also requested my expression as to whether this Act is violative of the provisions of Article II, Section 18, of the New Mexico Constitution. This is the constitutional provision regarding due process of law and denial to any person of the equal protection of the laws.

You are, of course, familiar with the rule of law that the legislature is permitted a wide range of discrimination in making classifications and the constitutional demands are satisfied if the classification is practical and not palpably arbitrary. The Act to which reference is made simply requires that printing be done by a firm having a plant located within the boundaries of this State. I would not want to say that there is any discrimination as against foreign corporations, because under the Act a foreign corporation has the right to establish a plant in this State and when that is done has the privilege of competing with domestic printers and I doubt seriously if the courts would hold that this Act constitutes a denial of the equal protection of the laws.

You have also made reference to Article IV, Section 26 of the State Constitution, which provides that the legislature shall not grant to any corporation or person any rights, {*137} franchises, privileges, immunities, or exemptions, which shall not, upon the same terms and under like conditions, inure equally to all persons or corporations, and that no

exclusive right, franchise, privilege or immunity shall be granted by the legislature or any municipality in the State.

I am unable to see any violation by this Act of the terms of this provision and referring to Section 24 of Article IV, it is my belief that the Act is a law which is general in its nature and not special and that the Act makes no grant to any person or corporation of any rights, etc., which are not granted to others similarly situated.