

sureties by the director (of highways), and as to legality and form by the attorney general, and be deposited with the secretary of state. * * * (Words in parenthesis the writer's.)

The second listed bond is undoubtedly executed pursuant to the provisions of sections 1183 and 1182-3, General Code. Section 1183, General Code, provides in part:

“* * * Such resident district deputy directors shall * * * give bond in the sum of five thousand dollars. * * *”

Section 1182-3, General Code, has been quoted above.

Finding said bonds to have been properly executed in accordance with the above statutory provisions, I am hereby approving them as to form, and returning them to you herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.

166.

APPROVAL, BONDS OF JACKSON TOWNSHIP RURAL SCHOOL DISTRICT, SANDUSKY COUNTY, OHIO—\$5,000.00.

COLUMBUS, OHIO, February 24, 1933.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

167.

RECORDING—USE OF PHOTOSTATIC OR PHOTOGRAPHIC PROCESS AUTHORIZED—COUNTY RECORDER MAY CHARGE STATUTORY FEE FOR SUCH RECORDING.

SYLLABUS:

The photostatic or photographic process, authorized by section 32-1 of the General Code, is included within the term "printing" as used in section 2778, and therefore a county recorder using such process for recording instruments, may collect the fees specified in that section.

COLUMBUS, OHIO, February 24, 1933.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I have your letter of recent date which reads as follows:

“You are respectfully requested to furnish this department with your written opinion upon the following:

Section 32-1 of the General Code provides for the recording of any document, plat, paper or instrument of writing, by any photostatic or photographic process. Section 2778 of the General Code fixes the fees of the county recorder for recording instruments at twelve cents per hundred words actually written, typewritten or printed on the record.

Question: When the photostatic or photographic process is used in recording instruments in the recorder's office, may the recorder collect the fees specified in section 2778 of the General Code, at the rate of twelve cents per hundred words for the number of words so recorded by photostatic or photographic process?"

Section 32-1 of the General Code provides:

"Whenever any officer, office, court, commission, board, institution, department, agent, or employe of the state, or of any county of more than 50,000 population, according to the next preceding federal census, is required or authorized by law, or has the duty to record or copy any document, plat, paper, or instrument of writing, such recording or copying, may be done by any photostatic or photographic process which clearly and accurately copies, photographs, or reproduces the original document, plat, paper or instrument of writing."

Section 2778, General Code, enacted in 1902 (95 O. L. 606) is in the following language:

"For services hereinafter specified, the recorder shall charge and collect the fees provided in this and the next following section. For recording mortgage, deed of conveyance, power of attorney or other instrument of writing, twelve cents for each hundred words actually written, typewritten or printed on the records and for indexing it, five cents for each grantor and each grantee therein; for certifying copy from the record, twelve cents for each hundred words.

The fees in this section provided shall be paid upon the presentation of the respective instruments for record upon the application for any certified copy of the record."

The first statute fixing fees to be charged by the recorder was enacted in 1831 (29 O. L. 219), and provided that the recorders should receive the following fees:

"For recording a mortgage, deed of conveyance, letter of attorney, or other instrument of writing, for every hundred words, ten cents * * *."

This statute was amended in 1891 (88 O. L. 577) to provide a recording fee of "twelve cents for every hundred words actually written on the record." Originally the statute did not prescribe the manner in which the record should be made. In the amendment in 1891 increasing the fee, the words "actually written on the record" were added. No doubt at this time it was the practice to transcribe the contents of the instrument in handwriting. In 1902 the legislature saw fit to extend the fees to recorders who adopted the more modern methods of typewriting and printing.

In 1929 when section 32-1 was enacted, the words, "written, typewritten or printed" in section 2778 were not changed. It follows that unless the photostatic

or photographic process is included within some one of these terms, the fee provided in section 2778 cannot be charged for records made by this process.

The photostatic process more nearly resembles printing than it does writing or typewriting. The first definition of "printing" contained in Webster's New International Dictionary is, "Act, art, or practice of impressing letters * * *." No doubt, when section 2778 was enacted, the ordinary meaning of printing involved the use of pressure. That pressure is not the only means of printing is shown by the second definition of the term found in Webster's:

"Act or art of producing a positive photographic picture from a negative by the action of sunlight or other actinic rays on sensitized paper."

Letters and documents now required to be reproduced in large numbers are copied by the photographic process. This process falls within the second definition of printing above quoted. The distinction between this method of reproduction and the photostatic process, which involves making a negative from a positive print, appears to me immaterial. Neither method requires the application of pressure.

Even though the ordinary conception of printing at the time of the enactment of section 2778 involves reproduction by the use of pressure, it does not follow that a new and different method of obtaining the same result is not within the meaning of the term. It is a well settled principle that the law becomes applicable to new inventions as new inventions come into use, without the same being especially included. This principle was applied in an opinion of this office, reported in Opinions of the Attorney General, 1913, Volume I, page 137, where a peddler's license law, in terms applicable only to one using a one-horse vehicle, two-horse vehicle, a boat, watercraft or a railroad car was deemed applicable to a peddler who used a motor truck.

In view of the foregoing, I am of the opinion that the photostatic or photographic process, authorized by section 32-1 of the General Code, is included within the term "printing" as used in section 2778, and therefore a county recorder using such process for recording instruments, may collect the fees specified in that section.

168.

CRIMINAL RECOGNIZANCE—NOTICE OF STATE'S LIEN NEED NOT BE COPIED IN A BOOK BUT MUST BE INDEXED—NO FEES CHARGEABLE FOR FILING SUCH LIENS.

SYLLABUS:

1. *The county recorder has no duty to actually copy or record in a book either the notices of lien prescribed by section 13435-5 or the notices of discharge of such lien prescribed by section 13435-6, the only requirement being that the recorder shall index all such notices in a book or record as they are filed in his office.*