

N.D.A.G. Letter to Hanson (March 21, 1988)

March 21, 1988

The Honorable Robert Hanson
State Treasurer
State Capitol
Bismarck, ND 58505

Dear Mr. Hanson:

Thank you for your letter of March 2, 1988, inquiring as to the presence of a union label on state stationery and envelopes.

As you correctly point out in your letter, a previous North Dakota Statute, N.D.C.C. § 46-02-02, required the appearance of one particular union label, to the detriment of all other union labels, on state stationery. In International Printing Pressman and Assist. U. v. Meier, 115 N.W.2d 18 (N.D. 1962), the North Dakota Supreme Court declared this statute unconstitutional as it was discriminatory and granted a special privilege to those printers having the right to use the label of the International Typographical Union. The court concluded that the statute discriminated against all other printers who may have the right to use other labels, or who may have no union label at all. The constitutional provision relied upon by the court was the old § 20 prohibiting the Legislature from enacting legislation granting special privileges.

We are unable to locate any legal discussion on the issue you have raised. International Printing Pressman does not address the presence of a union label where it is not required by law or by bid specifications to appear on state printing matters. However, the court in International Printing Pressman did not hold that statute unconstitutional as the result of the requirement of the union label. Instead, the basis for the decision as the required use of one particular union label to the detriment of all other labels. As the court noted:

We hold that section 46-02-02 is invalid and unconstitutional since it is discriminatory and grants special privileges to printers having the right to use the label of the International Typographical Union and it discriminates against all other printers who may have the right to use other labels, or who may have no union label at all.

Id. at 21. The inference which can be drawn from this language is that it is permissible to use union labels on state stationery so long as one union label is not singled out for special treatment.

There is one conceivable argument that could be made prohibiting the non-required appearance on state stationery of a union label. N.D. Const. art. X, § 18 prohibits the state from giving its credit or making donations to or in aid of any individual, association, or corporation, except for the reasonable support of the poor. One might argue that the

appearance of the union label acts to donate or give credit to an association which is not for the reasonable support of the poor. However, it would require a rather expansive reading of this constitutional prohibition to arrive at this particular conclusion.

In summary, the appearance of union label on state stationery where such appearance is not required by law or by bidding specifications appears to be an allowable practice.

Sincerely,

Nicholas J. Spaeth

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