

**County Auditor—Examination of Books of County Officers—
Report of to County Commissioners.**

Under the provisions of Section 3108 of the Revised Codes of 1907 (Sec. 4832, Revised Codes of 1921), the County Auditor is required to make the examinations therein provided for within fifteen days next preceding each regular meeting of the Board of County Commissioners, and to report the result of his examination to the Board of County Commissioners at their regular meetings.

George Bourquin, Esq.,
County Attorney,
Butte, Montana.

My dear Mr. Bourquin:

You have submitted to this office the question whether, under Section 3108 of the Revised Codes of Montana, and Section 2891 of the Revised Codes, as amended by Chapter 148, Session Laws of 1915, it is the duty of the County Auditor to audit and make reports of the books of the county officers mentioned in Section 3108 of the Revised Codes of Montana of 1907, on the first Monday of each month unless a longer term be granted him by the Board of County Commissioners.

Chapter 148 of the Session Laws of 1915 provides as follows:

“The Board of County Commissioners, except as may otherwise be required of them, may meet at the county seat of their

respective counties on the first Monday of each and every month of the year, for the purpose of allowing bills and attending to any other business that may regularly come before them, and may sit not exceeding three (3) days at each session, except the December session, at which time they may sit not exceeding eight (8) days. But the Board may at any time, by giving at least five (5) days public notice, hold an extra session of not over three (3) days' duration; provided, that the limitations as to the time of sessions of the Board of County Commissioners contained in this section shall not apply to counties of the First, Second, Third or Fourth Classes."

This section fixes the time of the regular meetings of the Board of County Commissioners as the first Monday of each month, it being an amendment of Section 2891 of the Laws of 1907, fixing the time of the regular meetings as the first Monday in December, March, June and September respectively of each year.

Section 3108 of the Revised Codes of 1907 reads as follows:

"It shall be the duty of the county auditor to make an examination of the books and accounts of the county treasurer, the county clerk and recorder, the sheriff and clerk of the district court, and all other county and township officers within fifteen days next preceding each regular session of the board of county commissioners at their next session immediately following such examination, unless a longer time be granted him by the board in which to report the same, and said report shall contain a full and complete statement of the moneys received and disbursed by each of the said officers since the last examination and report of the same, and for this purpose the county auditor shall have free access to all books and papers in each of said offices."

It is obvious there is an omission in this section between the phrase "of county commissioners" and the phrase "at their next session." It is presumably an omission resulting from a typographical error, inasmuch as the words "said report" that follow indicate what the omission consists of, viz., a requirement that the officer "*report*" *at their next session*. It is apparent from reading the section as a whole that more than a mere examination was intended, and in order to give effect to the statute as a whole, the language referring to "reports" in the latter part of the section must be given effect. The evident intention of the Legislature was to require an examination prior to and a report at each regular meeting; otherwise, no report whatever could be required, and thus the object of the section would be defeated.

The changing of the dates of the regular meetings does not affect the provision requiring these reports, and the Legislature in making the regular meetings more frequent, it is presumed had in mind the re-

quirement of the statute that the Auditor examine and report prior to each regular meeting and intended that the examination and report should be made with equal frequency.

The rule of law that a statute must be construed so as to give it effect as a whole, if possible, has long been settled in this State. See:

Thomas v. Smith, 1 Mont. 21;
Power v. Board of County Commissioners, 7 Mont. 82;
State v. Cave, 20 Mont. 468;
Hilburn v. St. Paul, etc. R. R., 23 Mont. 229.

The rule is stated in 36 Cyc. 1127, as follows:

"p. Words Omitted. Where it appears from the context that certain words have been inadvertently omitted from a statute, the court may supply such words as are necessary to complete the sense and to express the legislative intent."

It is my opinion, therefore, that the County Auditor is required to make the examinations provided in Section 3108 of the Revised Codes of 1907 within fifteen days next preceding each regular meeting of the Board of County Commissioners, viz., the first Monday of each month, and to report the results of his examination to the Board of County Commissioners at said regular meetings.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.