

that the county printer had no authority to charge the county with printing which has not been ordered and which does not come within the terms of his contract. The printing under consideration here was not ordered. Whether it comes within the terms of the contract for county printing we are not informed. For the purpose of this opinion we shall assume that the Board of County Commissioners ordered the printing or included the printing of official election returns in the contract for county printing. The result is the same.

The principle is firmly established in this jurisdiction that the Board of County Commissioners may exercise only such powers as are expressly granted it by statute and such as are necessarily implied from those expressly granted. (*Lewis v. Petroleum County*, 92 Mont. 563; *American Surety Co. v. Clarke*, 94 Mont. 1.)

The authority of the Board of County Commissioners, then, to order the printing of official election returns and to pay for such publication from county funds, must be found in the laws of the State of Montana or it cannot be said to exist at all. A close reading on our part of the pertinent provisions of our codes does not disclose the existence of the particular power sought to be exercised in this instance. (See Volume 2, *Official Opinions of Attorney General*, page 6, which is overruled as to the subject of the second division of the syllabus.)

Opinion No. 3.

**Elections—Canvass, Publication of—
County Commissioners, Claims—
County Commissioners—Powers—County Printing, Of-
ficial Returns Are Not.**

HELD: There is no authority for the publication of official returns of a county as county printing.

December 7, 1936.

Mr. E. P. Conwell
County Attorney, Carbon County
Red Lodge, Montana

Dear Sir:

You have requested my opinion whether or not the county printer may print official returns for the primary and general elections and collect for such printing as county printing. The county printer in your county published the official returns on November 13th of this year, without being ordered to do so. He was under the impression that such printing was mandatory, and now seeks to recover for the publication as county printing.

You have expressed your opinion that the claim is not a proper charge against the county. With that opinion we agree. It seems superfluous to state