

**Sanders County—Organization Of—Board of County Commissioners, Authority Of.**

Chapter 9, Laws 1905, creating Sanders County, names the officers for the new county, but the law does not take effect until the first day of March, 1906, and therefore the board of county commissioners, as such, have no more power or authority to contract for the county than any other individual. But in order to perfect the organization and place the county in a position to at once commence business, there is no objection to the board of county commissioners named in the bill purchasing in advance such books, supplies, records and stationery as are necessary in order to enable the new county to at once commence business. They cannot, however, enter into a contract for the transcribing of the records, because this must be done by them as a board of county commissioners after organization.

Helena, Montana, August 31, 1905.

Messrs. C. H. Rettenour, William A. Beebe and W. R. Beamish, Board of County Commissioners, Sanders County, Plains, Montana.

Gentlemen:—I am in receipt of your request for direction from my office respecting certain matters incident to the organization of Sanders County and your right to take steps in contemplation thereof in advance of the date the law goes into effect. You ask particularly as to your powers as commissioners prior to March 1, 1906, the date when the law goes into effect and at which time you take office, particularly regarding your right and authority to contract for the furnishing of books and supplies and the transcribing of the records, because of the fact that you deem it necessary and advisable and in the interest of the new county that some steps be taken in advance of the date the law becomes effective, so that the county can at once start out upon a business basis.

By the provisions of Chapter 9, laws 1905, the county is created, but by the provisions of Subdivision 16 thereof it does not come into existence until March 1, 1906. You are named as the board of county commissioners of the new county, and it goes without saying that you have no right or power or authority whatsoever, as a board of county commissioners, prior to the time the law takes effect, and, therefore, you could

not act officially as a board of county commissioners prior to that date. However, the exigencies of the case are such that you can properly, in contemplation of the new county of which you will be its board of county commissioners, arrange details in advance so as to start the county in operation at the date the act takes effect upon a business basis.

You have no authority conferred upon you by law for pledging the credit of the county any more than any other individual, but in order that the county may be speedily and properly organized on a business basis at the time the act creating it becomes effective, I feel that you would be entirely justified in making the necessary provisions in advance and thereafter, as a board of county commissioners, approve such indebtedness incurred and direct the drawing of warrants in payment of same, for, unquestionably, after the law takes effect it will be within your power, under the provisions of Section 4230, Political Code, to represent the county and have the care of county property and the management of the business concerns of the county in all cases where no other provision is made by law, and to examine, settle and allow all accounts legally chargeable against the county.

The purchase of books, supplies and records for the new county would unquestionably be a proper and legal charge against the county and a proper indebtedness to be incurred by you as a board of county commissioners after the new county comes into existence, and an expense which would necessarily have to be incurred, and I cannot see any good and sufficient objection or reason why you cannot properly meet informally and order such necessary supplies in advance and afterwards, as a board of county commissioners, legally ratify and approve your action taken on behalf of the county prior to your induction into office.

But, respecting the ordering of such books and supplies, I think you should follow strictly the provisions of Section 4233, Political Code, respecting the awarding of contracts for necessary printing, blanks, and blank books, etc., to a newspaper of general circulation published within the county, if any you now have within the bounds thereof, the same as you would be required to do were you now acting officially as a board of county commissioners.

You cannot, however, contract in advance for the transcribing and indexing of the records of property lying within the limits of the county of Sanders, for Section 9, of said Chapter 9, laws 1905, prevent you from so doing. Under the provisions of said section, you are required, as a board of county commissioners, to contract with the lowest responsible bidder for transcribing and indexing of records of property lying and being within the limits of the county of Sanders, and all other public records, and you cannot legally enter into the contract by said section provided, until your county is actually in existence and you are legally constituted under the act its board of county commissioners.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.