Board of State Prison Commissioners, Power and Authority Of. Contract System, Provisions of the Law Respecting. Prison Warden.

Under the provisions of Sections 2950 to 2998, inclusive, Penal Code, the board of state prison commissioners had the power, in their discretion, to resort to the contract system when it was thought best in the interest of the state.

Sections 2950 to 2981, inclusive, deal with the conduct of the prison by the state, and the appointment of a warden therefor.

Helena, Mont., June 8, 1908.

Hon. Edwin L. Norris,
President Board of State Prison Commissioners,
Helena, Montana.

Dear Sir:—

I am just in receipt of your communication of even date herewith requesting my official opinion as to whether or not it is within the province and power of the board of state prison commissioners under the provisions of the law to do away with the contract system, take over the prison and prison property and appoint a warden.

In reply I will say that I have carefully examined all of the provisions of the law bearing upon the subject, same being found in Title I, Part III of the Penal Code of the state of Montana, comprising Sections 2950 to 2998 inclusive; and I am of opinion therefrom that it was the intention of the lawmakers of this state that the contract system was only to be resorted to when the board, in the exercise of a wise judgment and discretion, thought it best in the interests of the state. The statute, from Sections 2950 to 2981, inclusive, deals generally and specifically with the conduct of the state prison by the state, and provides for the appointment of a warden, and until Section 2982 is reached no word or mention is found respecting the contract system. After having made full provision with respect to the conduct of the institution by the state, through a warden, and made all provisions respecting the subject, we find in Section 2982 that the board is authorized to adopt the contract system. Secions 2982 to 2988, inclusive, deal with and cover the terms and conditions of the law respecting the contract system in the event the board shall upon this authority of law adopt such system.

I therefore give you as my opinion that the board of state prison commissioners now has full power and authority to appoint a warden, fix his salary and take over the prison, all prisoners therein confined, and the property belonging to the state of Montana, and also property belonging to the contractors considered necessary and desirable for the proper conduct and management of said institution. The law is clear upon this subject, and under the provisions of the law, and the terms of the contract in existence, provision is expressly made authorizing the board so to take over the prison and all property connected therewith.

Respectfully submitted,

ALBERT J. GALEN,
Attorney General.