

**Printing Contract, When Voidable. County Commissioners,
Authority to Bind New Board.**

A printing contract entered into by a retiring board of county commissioners is merely voidable, and may be ratified by the new board or disregarded and a new contract entered into.

A contract entered into with a newspaper which has not been published continuously for six months in the county immediately preceding the awarding of the contract is void.

Helena, Montana, Feb. 23, 1907.

W. L. Ford, Esq.,
County Attorney,
White Sulphur Springs, Montana.

Dear Sir:

Your letter of the 12th inst., requesting opinion of this office upon the following questions, received.

1. "Under the opinion given by you to the County Attorney of Fergus County on December 10, 1906, was it held that the contract for county printing entered into by the retiring Board was absolutely void, or only voidable at the election of the incoming Board?"

2. "Does the fact that at the time the contract was entered into by the retiring Board with the Musselshell News such paper lacked ten days of having been published continuously in such county at least six months immediately preceding the awarding of such contract render the contract void?"

In the opinion given to the County Attorney of Fergus County we use the following language:

"Under said Section 4233 of the Political Code the county commissioners are not even required to ask for bids for county printing, but may, if they so desire, enter into a contract with any paper in their county that, in their judgment, shall be most suitable for performing said work, which has been published continuously in such county at least six months immediately preceding the awarding of the contract. * * * We must hold that it is against public policy for the old board of commissioners, whose term of office is about to expire, to enter into contract for work of the character of county printing which will be binding upon the newly elected board of county commissioners and thereby deprive them of the discretion they are given by the law in making such contracts."

In such opinion we merely held that the old board could not in such cases bind the new board, and that it was optional with the new board to say whether it wished to ratify the old contract or enter into a new one. If in its discretion it decided to ratify the action of the old board there is no question but what it could do so provided, the old board had entered into a contract at a price not exceeding the maximum rate and that the paper was published in the county for the required length of time.

If the Board of County Commissioners awarded the contract to a paper which had not been published continuously in such county for at least six months immediately preceding the awarding of the contract such contract would be void, and in such a case the new Board of County Commissioners could not ratify such contract. In that event the new board would have to enter into a new contract, and if at the time of entering into a new contract the paper with which the old board had contracted had been published continuously for six months in the county, the board in its discretion could enter into such new contract with such paper upon such terms as might be agreed upon between them, within the maximum rates established by law, or could enter into a contract with another newspaper which had been published the required length of time in the county, or could advertise for bids from all of such papers.

Very truly yours.

ALBERT J. GALLEN,

Attorney General.