

**Printing Contract. Election Returns.**

The proceedings of the board of county canvassers in canvassing election returns are not proceedings of the board of

county commissioners within the meaning of division 21 of section 4230 of the Political Code.

The publication of election returns by the official paper does not constitute a valid claim against the county in the absence of an express contract or agreement to that effect.

Helena, Mont., Dec. 15th, 1906.

Hon. N. B. Smith,  
County Attorney,  
White Sulphur Springs, Mont.

Dear Sir:—

Your letter of the 6th inst., requesting opinion of this office, received.

From your letter it appears that the "Meagher Republican" published in tabulated form, the election returns of your county for the last general election, as the same were determined by the Board of County Canvassers, and has presented a bill for the sum of \$103.00 for the publication thereof, and also that the county clerk claims that he did not authorize the publication of such returns and that the board never authorized such publication.

As we understand your letter, the Meagher Republican bases its claim upon the fact that it is the official paper of the county, and insists that the election returns are proceedings of the board of county commissioners and come within the provisions of subdivision 21 of section 4230 of the Political Code, which reads as follows:

"At the adjournment of each session of the board to cause to be published in a newspaper, or otherwise, a fair statement of all its proceedings, and annually a statement of the financial condition of the county."

Said section 4230 relates only to the board of county commissioners, and said division 21 says "at the adjournment of each session of the board, etc."

To what board does this section refer? It is perfectly clear that it refers only to the board of county commissioners and by no rules of construction could be held to include the board of county canvassers, which is a separate and distinct board, and the mere fact that the members of the board of county commissioners may, if all are present at the time that the election returns are canvassed, sit as a board of county canvassers, does not make the proceedings of the board of canvassers the proceedings of the board of county commissioners.

You are therefore advised that if the contract entered into between the board of county commissioners and the newspaper did not specify the publication of official election returns and the board of county commissioners did not order the publication of the same, that the mere fact that the paper did publish such returns does not give it a legal and valid claim against the county for such publication.

The reasons for requiring the publication of a statement of the

proceedings of the board of county commissioners at the adjournment of each session of the board is apparent. This publication is required in order that the tax-payers of the county may be informed as to the disbursements of the public moneys by the board, and other business of the county, but the publication of election returns is simply a matter of news, and, in the absence of plain statutory provisions requiring the same to be published, or an express contract with the county to publish the same, it cannot be held that such is an official publication for which the county is liable.

Very truly yours,

ALBERT J. GALEN,

Attorney General,