

Printing Contract, County. Contract, for County Printing.

Under Sec. 2897 Revised Codes it appears that the intention was to require the county printing to be let to one newspaper of general circulation, and that the job work could not be let to a contractor other than such a newspaper. The constitutionality of this law is very doubtful, as it, in effect, deprives job printing houses of the right to solicit such business and takes

away from the County Commissioners the right to contract for the work that cannot be done by the local paper and gives such right to the local paper.

Helena, Mont., Jan. 2, 1909.

Hon. James E. Murray, County Attorney, Butte, Mont.

Dear Sir:

I am in receipt of your letter of the 30th ult., requesting opinion upon the following proposition: Will it be legal for the board of county commissioners in letting a printing contract for county printing to divide the contract and have the job printing done by a job printing company who offer to do the same at a very low price, and then let a contract for the balance of the printing to one of the local newspapers?

From the language of Sec. 2897, Revised Codes, relating to the letting of contracts for county printing by the county commissioners, it seems that it was the intention of such law that there should be but one contract which should be let "to a newspaper of general circulation" and that such contractor was "to do and perform all the printing for which said counties may be chargeable." However, while the above is the only construction that can be put upon the language used in said section, there has always been a grave doubt as to the constitutionality of this law.

The law, in effect, compels the county commissioners to let a contract to a newspaper of general circulation in the county, notwithstanding the fact that such newspaper might have no means or facilities for doing the work, and then provides that such newspaper, upon receiving the contract, shall have the authority to sublet the work or any portion of it to some other newspaper or printing establishment within the state. Thus it deprives the board of county commissioners of the right to contract with a printing establishment in the state, and, in effect, delegates such power to a local newspaper of general circulation. The law also denies a job printing house all right to compete for the class of work done by such establishment and thus seems to interfere with the liberty of the individual to pursue a lawful trade or employment and to unjustly limit the powers of the board of county commissioners as the representatives of the county to contract regarding matters relating to the affairs of the county.

See: *People v. Coler*, 59 N. E. (New York) 776;

People v. Color, 59 N. E. (New York) 716;

Marshall & Bruce Co., v. City of Nashville, 71 S. W. 815.

In view of the constitutional objections to said law it would seem that the board of county commissioners, in case they could make a substantial saving to the county, would be justified in dividing the contract up and then let anyone dissatisfied with their action test the constitutionality of the law in the courts.

Very respectfully yours,

ALBERT J. GALEN,

Attorney General.