

Printing Contract, in New County. County Commissioners, Authority to Purchase First Record Books. County Commissioners, Duty to Advertise for Public Printing. Public Printing, Duty of Commissioners to Advertise for.

Under the provisions of Section 2897, Revised Codes, the board of county commissioners is not required to advertise for bids but may let the contract to that newspaper within the county which in their judgment is best qualified to furnish the articles enumerated under said section.

Upon organization of new county it is the duty of the county clerk to procure books for records with the consent of the board of county commissioners and said clerk may go into the open market and purchase such books.

March 7th, 1911.

Mr. Desmond J. O'Neil,
County Attorney,
Roundup, Mont.

Dear Sir:

I am in receipt of your communication of the 1st inst., but owing to the stress of business incident to the session of the legislature, answer to same has been somewhat delayed.

You submit for my opinion the question as to whether or not the board of county commissioners of your county could lawfully contract with an outside book company for the first books furnished to the county officers. And you further state that you had advised the commissioners that Section 2897, Revised Codes, relative to the printing contract was mandatory and that the commissioners were bound to contract with some paper within the county.

With reference to the contract of the commissioners and the furnishing of the articles mentioned in Section 2897, I affirm your opinion, but with reference to the procuring of the books to begin the recording of instruments necessary to be recorded in the new county, it is my opinion that the commissioners should furnish such books as promptly as possible, and may go into the open market and procure them from such sources as would be for the best interests of the county. All instruments presented for record upon or subsequent to March 1st, and affecting property within the county of Musselshell as such county came into existence on March 1st, must necessarily be recorded in Musselshell county. Section 3031 of the Revised Codes of 1907, provides:

"The county clerk as ex-officio recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of county commissioners."

From the reading of such section it is manifestly the duty of the county clerk to procure such books as may be necessary for his office

but the only limitation upon his authority in the matter is the necessity for an order for the procuring of such books to be obtained from the board of county commissioners. And in the event that the commissioners authorize the purchase of such books it is my opinion that the county clerk may, especially in the case of the creation of a new county, go into the open market and procure them.

However, in this connection, I desire to call your attention to the fact that it is not necessary under the provisions of Section 2897, that the commissioners ask for bids for county printing, but such section gives the board authority to enter into contracts with any paper within their county, which in their judgment is most suitable for performing their work.

I respectfully refer you to opinions found in Vol 2, Opinions of Attorney General page 3; and Vol. 3, Opinions Attorney General, page 15. I am sending you under separate cover today, these two volumes which are to remain in the office of the county attorney of Musselshell county, for use in that office.

Yours very truly,

ALBERT J. GALEN,
Attorney General.