

New Counties, Records Of. Records, Transcribing. County Commissioners, Duty Relative to Transcribing Records. Records of New County, How Transcribed. Delinquent Taxes, How Collected, in New Counties. New Counties, Collection Delinquent Taxes in.

Sec. 11, Chap. 112, Session Laws of 1911, is incomplete as to duty of commissioners relative to transcribing records for new county and it is their duty to have records transcribed by contract in accordance with provisions of Sec. 2861 to Sec. 2866, Revised Codes.

Upon the division of a county delinquent taxes should be collected by the officers of the old county.

March 22, 1912.

Hon. Victor R. Griggs,
County Attorney,
Havre, Montana.

Dear Sir:

I am in receipt of your letter of the 13th inst., wherein you request my official opinion upon the following questions:

1. Under Sec. 11, Chapter 112, page 222, Twelfth Session Laws, is it necessary for the county commissioners to advertise for bids and let a contract for transcribing records, or can they employ a competent person to supervise the work without letting any contract, i. e. can they have the work done themselves, or must it be let by contract to some one else?

2. Where must delinquent taxes be paid by persons living in a newly created county, the officers of the new county having no copies or other records of the assessments levied by the old county?

The only provision contained in Chapter 112, Laws of 1911, relative to the transcribing of the records of the old county is contained in Sec. 11 of said act. The provisions of this section are incomplete in themselves and reference must necessarily be had to the code provisions relating to this matter in force at the time of the adoption of said Chapter 112. In fact, reference is made in said Section 11 to the laws now in force in the following language:

"The said county commissioners shall have full power and authority to contract for transcribing of records as now provided by law."

Said section further provides that:

"Said records when so transcribed and certified as herein provided, etc."

but there is no further provision relative to the manner of transcribing and the manner in which the transcribed records shall be certified. Reference then must necessarily be had to the provisions of Section 2861 to 2866 inclusive, of the Revised Codes of 1907. These sections were enacted by the legislature of 1893 and are found in laws

of 1893, at page 217. It is clear from these provisions that the legislature contemplated that the county commissioners should award a contract for the transcribing of records.

Sec. 2861 makes it the duty of the county commissioners of any county * * * * hereafter formed * * * * to have so much of the records of the original county as relates to the property situate within the segregated county transcribed "as hereinafter provided." The provisions referred to in said Section 2861 are found in Sections 2862 to 2866 inclusive. Sec. 2862 gives to the county commissioners full power and authority to contract for transcribing the records. Sec. 2863 provides for the payment for transcribing such records "by the county contracting therefor." Further Sec. 2864 provides that when the transcription of such records shall be completed and approved by the county commissioners then they shall be delivered to the county clerk and recorder of the old county for proper certification.

It is my opinion, therefore, that each of these sections, above mentioned, contemplated a contract to be entered into between the board of county commissioners of the newly created county and some person or persons for the transcribing of such records.

It is true that Section 11 of Chapter 112 gives to the board of county commissioners of the newly created county authority to provide suitable books to be used in the transcribing of the records from the old county and to this extent Chap. 112, Laws of 1911, goes farther than the original code provision. And in view of the provisions of said Sec. 11, it is my opinion that the board of county commissioners of the new county, if they so determine, could purchase the necessary books for the transcribed records but should let the contract for the work of transcribing to some person or persons, or they should let the contract on the basis that the contractor should furnish the books and labor of transcribing the records.

It is, therefore, my opinion that it is the duty of the commissioners of Hill county to let a contract for the transcribing of such parts of the records of the old county of Chouteau as relate to or affect property or the title thereof situate in Hill county, and that they have no authority to have such work done themselves or to employ some person to do the work for them.

In answer to your second inquiry, I will state, that there is no provision contained in Chapter 112, Laws of 1911, relative to the collection of delinquent taxes, and we must therefore, be governed by the provisions of Sec. 2850, which is as follows:

"When a county is divided or a boundary is altered, all taxes levied before the division was made or boundary changed must be collected by the officers of, and belong to, the county in which the territory was situated before the division or change."

It is, therefore, my opinion that the delinquent taxes should be collected by the officers of Chouteau county, that being the county in

which the territory now embraced within the county of Hill was situated before the division of said Chouteau county.

Yours very truly,

ALBERT J. GALEN,

Attorney General.