

Contract, With County. Officer, of Corporation. Corporation, Public Officer as Officer of. Public Officer, as Officer of Corporation.

Where a public officer who is also an officer of a corporation with whom it is proposed to contract, has no power, duty or authority in the making of the contract, the company of which he is an officer is not disqualified from contract with the county.

March 28, 1916.

Hon. Frank Hunter,
County Attorney,
Miles City, Montana.

Dear Sir:

I have your request under date the 21st instant, asking for my opinion as to whether the Board of County Commissioners are prohibited by Section 368, Revised Codes of 1907, from awarding a contract for county printing to a printing company of which the clerk of the district court is president. You cite the case of State v. Williams, 21 American and English Annotated Cases, 910, and the notes thereto, as denying the right to the Board to let the contract under the conditions stated. There is no doubt about the general principle that a public officer cannot be interested in a contract which he individually or as a member of some board, lets as a public officer. This rule is supported by the great weight of authority. However in the case in hand, the public officer, who is an officer also of the corporation with whom it is proposed to contract, has no power, duty or authority in the making of the contract. The clerk of the court is not a member of the board of county commissioners, and has no voice in their proceedings. Hence, it is not a case of an officer dealing with himself.

I am of the opinion, therefore, that the provisions of Section 368, Revised Codes, 1907, do not apply to the facts stated by you.

Yours very truly,

J. B. POINDEXTER,

Attorney General.