

**Printing — Counties — County Commissioners—Ballots
—Contracts.**

Chapter 133 of the Laws of 1923, requiring the rotating of the names of the candidates upon the ballots, required a class of printing, the charge for which is not specifically provided for by any of the laws of this state, and therefore, the County Commissioners have authority to allow, in addition to the sum provided for in the contract, such sum as in their discretion seems to be a reasonable compensation for the extra labor necessary.

Homer A. Hoover, Esq.,
County Attorney,
Circle, Montana.

My dear Mr. Hoover:

You have submitted for my opinion the question whether the party holding the printing contract made pursuant to the provisions of Sec-

tion 4482, R. C. M. 1921, may charge the county for the extra work occasioned by Chapter 133, Laws of 1923, requiring the rotation of ballots.

You state that the printer has presented a bill to the county in the total sum of \$1,050. You further state that of this sum \$340 is admitted to be due under the contract for the printing and that the balance of \$710 is for the extra labor involved in rotating the names of the candidates on the ballots.

You desire my opinion as to whether the Board of County Commissioners has authority to allow any part of the \$710 item to cover the extra labor occasioned by the necessity of the rotation of the names of the candidates.

Section 4482, Revised Codes of 1921, prescribes the maximum amount that may be charged for doing certain printing. The contract for the county printing referred to by you was let prior to the passage of Chapter 133, Laws of 1923.

By Section 651, which was in force at the time of the passage of Section 4482, it was provided that the names of the candidates should be arranged alphabetically. Obviously, the maximum rates provided for by Section 4482 were intended to be applicable only to the kind of ballots provided for by said Section 651.

The effect of Chapter 133, Laws of 1923, is to provide a class of county printing not contemplated by Section 4482. If Section 4482 were held to fix a maximum rate for the printing of the ballots contemplated by Chapter 133, Laws of 1923, it is questionable whether Chapter 133 would not, in effect, be impairing the obligations of the contracts theretofore made for the county printing. It is obvious that the printer is obliged to incur much greater expense for the printing of the ballots under Chapter 133, where the names are rotated for every twenty-five ballots, than was required under the law as existing at the time the contract for the county printing was let.

The following cases, though not involving the identical circumstances involved in this case, intimate strongly that such legislation may be construed as impairing the obligation of a contract:

State ex rel. Speer v. Barker, 4 Kan. 379.

State ex rel. Reynolds v. Barker, 4 Kan. 435.

Jones v. Hobbs, 4 Baxter (Tenn.) 113.

Bronk v. Barckley, 43 N. Y. S. 400.

Hall v. State of Wis., 26 L. Ed. 302.

Under Section 4482, Revised Codes of 1921, it is provided:

“All other blanks, blank-books, stationery, election supplies, loose-leaf forms and devices, and other printed forms required for the use of such counties, shall be furnished and paid for not to exceed the rates herein provided for similar blanks or printing.”

It is, therefore, my opinion that by Chapter 133, Laws of 1923, a class of printing is required, the charge for which is not specifically provided for by any laws of this state, and that, therefore, the Board of County Commissioners has authority to allow, in addition to the sum provided for in the contract, such sum as, in its discretion, it determines to be reasonable compensation for the extra labor made necessary by the law requiring the names of candidates to be rotated, taking into consideration the amount of labor involved, together with the maximum rates prescribed for the printing of other similar forms and supplies under Section 4482.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.