

**Opinion No. 10****County Commissioners—Powers—Automobiles—Budget.**

HELD: If the Board of County Commissioners, in the exercise of a sound discretion, deems the use of an automobile necessary for the convenient, economical and orderly dispatch of the business of a county, the provision of Section 4465 is broad enough to vest it with the power to purchase such automobile.

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January 12, 1933.

You have requested my opinion as to whether or not the board of county commissioners has authority under the law to purchase an automobile for the use of a county.

This authority, if it exists at all,

must be looked for in section 4465 of the Revised Codes, 1921, as amended, which provides, among other things, that "the board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to purchase \* \* \* any \* \* \* personal property necessary for the use of the county."

A board of county commissioners is a specially constituted tribunal, possessing only such powers as are expressly conferred upon it by statute or necessarily implied from those expressly granted. (*Judith Basin Co. v. Livingston*, 89 Mont. 438; *Ainsworth v. McKay*, 55 Mont. 270.)

The board of county commissioners of a county is vested with and possesses just such powers as the statute confers upon it and such as are necessarily implied to enable it to carry out the objects and purposes of its creation. In general, the board is charged with the duty of managing the affairs and business of the county and of making contracts, necessary and incident to such management. (7 R. C. L. 938, 943.)

Except as otherwise provided by law, a board of county commissioners ordinarily exercises the corporate powers of the county. It is in an enlarged sense the representative and guardian of the county, having the management and control of its property and financial interests, and having original and exclusive jurisdiction over all matters pertaining to county affairs. Within the scope of its powers, it is supreme, and its acts are the acts of the county. It is well settled, however, that a county board possesses and can exercise such powers, and such powers only, as are expressly conferred on it by the Constitution and statutes of the state, or such powers as arise by necessary implication from those expressly granted, or such as are requisite to the performance of the duties which are imposed on it by law. (15 C. J. 456-458.)

The board of county commissioners is in a sense the general business agent of the county, and as such has charge of its financial affairs and business as to such matters as are not expressly or by necessary implication delegated by law to other officers of the county or as are not reserved to the people. (*State ex rel. Coleman v. Fry*, 95 Pac. 392.)

If, then, the board of county commissioners, in the exercise of a sound discretion, deems the use of an automobile necessary for the convenient, economic and orderly dispatch of the business of a county, it is our opinion that the quoted part of section 4465 is broad enough to vest it with power to purchase such automobile.

We are fortified in this view by the language of section 1760, Revised Codes 1921, as amended, which exempts a county from paying a registration fee for motor vehicle (automobile) owned by it.