

chase an automobile out of the public funds for use of the board in viewing roads and for other uses by the board.

June 14, 1933.

You submit to this office request for an opinion on the following question: "The power of the board to purchase a car out of public funds for use of the board in viewing roads and for other uses by the board."

Former Attorney General Poindexter on February 24, 1916, (Volume 6, p. 342 Opinions of the Attorney General) rendered an opinion to the County Attorney of Stillwater County, in which he characterized the purchase of an automobile for the use of the board in viewing roads as of "doubtful expediency," but did not hold such act illegal in that opinion. On March 28, 1916, however, Judge Poindexter referred, in an opinion (same volume, page 364) to the board of county commissioners of Lewis and Clark County, to his former opinion to the county attorney of Stillwater County, and in the opinion to the Lewis and Clark county board, used this language:

"Referring to an opinion of this office under date of February 24th, in which it was held that the board of county commissioners had no authority to purchase an automobile for the purpose of inspecting contract or work upon county roads. * * *"

Judge Poindexter in his opinion of February 24, 1916, did not, in so many words, deny the board's power to buy an automobile for its own use, but in his later opinion construed the former as stated above denying such power. And, of course, his own construction must be accepted.

January 12, 1933, this office rendered an opinion (No. 10) to certain members of the Assembly in which the following language was used: "If, then, 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, it is our opinion that the quoted part of Section 4465 is broad enough to vest it with power to purchase such automobile."

Opinion No. 241

**County Commissioners—Highways,
Viewing of—Automobiles, Purchase of.**

HELD: That a Board of County Commissioners, in the exercise of a sound discretion, has the power to pur-

The two opinions of Judge Poindexter taken together, deny the board's power to purchase an automobile with public funds, "for the board's use". The opinion of the present Attorney General of January 12, 1933, held the board might make such purchase for "county use," in the exercise of the "sound discretion" of the board. Nothing was said in this last opinion about a car for the use of the board of county commissioners.

This office does not attempt to advise public officials as to matters of policy or expediency, but to interpret the law and advise as to just what power such officials have. Boards of commissioners are elected by the people of the counties they serve and are answerable to the people of their respective counties for lack of judgment and discretion in the discharge of their official duties. The necessity for acts, such as purchasing an automobile, is better known to the members of the board and the electors of the county affected, than to this office, and we have held that such purchases are within the discretion of the county board, but do not in any way recommend or commend such purchase. It is for your board to determine the necessity of such act in your "sound discretion". This office has no control over your "discretion" in such matters. It is for you, as a board, to determine the necessity in your "sound discretion." If you err in the exercise of such discretion and spend your county's money in a questionable or extravagant way, you are answerable to your constituency, not to this office.