

## No. 19

**COUNTIES—COUNTY COMMISSIONERS—ROAD MACHINERY, Purchase of—INSTALLMENT PLAN—CONSTITUTIONAL LIMITATION, \$10,000—“SINGLE PURPOSE” DEFINED—SINGLE BID**

- Held: A. A shovel used for road construction and a patrol used for road maintenance do not constitute a “single purpose” within the meaning of Section 5, Article XIII of the Montana Constitution.
- B. The Board of County Commissioners may purchase road machinery, costing in the aggregate of \$10,000, on the installment plan, extending over a period of two years, without first obtaining the approval of a majority of the electors of the county, when, as in this case, no single item of said equipment costs over \$10,000.
- C. The purchase of the road machinery in question by the letting of a single bid is legal and should be made in conformity with the provisions of Section 4605.1, Revised Codes of Montana, 1935.

February 10, 1941.

Mr. Burke F. Flick  
County Attorney  
Deer Lodge County  
Anaconda, Montana

Dear Mr. Flick:

You have submitted the following facts:

“I was asked by the County Commissioners of Deer Lodge County to render an opinion to them in regard to the procurement of equipment costing in the neighborhood of between \$15,000 and \$17,000. Each of these items (3/8-yard shovel costing approximately \$7500 to be used for road construction purposes only and a road patrol costing approximately \$7,000 to be used for maintenance purposes only) will cost less than the constitutional prohibition of \$10,000; yet they deem it expedient and necessary that these implements, which are not interdependent and are mutually exclusive, should be purchased by the

letting of a single bid, payable in monthly installments over a two-year period."

Section 5 of Article XIII of the Constitution of Montana provides:

"Sec. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law."

Under the above quoted section our Supreme Court has defined "single purpose" in the case of *State ex rel. Turner v. Patch, et al.*, 64 Mont. 565, 210 Pac. 748:

"The word 'single' is defined as: one only; being a unit; alone; detached; one which is abstracted from others. (Webster's International Dictionary; Century Dictionary.) 'Purpose' means that which a person sets before him as an object to be reached or accomplished; an end, intention or aim. (EX PARTE McCoy, 10 Cal. App. 116, 101 Pac. 419; 4 Words & Phrases, Second Series, 69.) The synonyms are: end, aim, object, plan, proposition, project. (Standard Dictionary; Grebb's Synonyms.)"

According to approved usage, then, the words "single purpose" convey to the mind the idea of one object, project or proposition—a unit isolated from all others. In other words, to constitute a single purpose, the elements which enter into it must be so related that, when combined, they constitute an entity; something complete in itself, but separate and apart from other objects.

By the reading of *State ex rel. Turner v. Patch*, supra, which defines "single purpose," it is evident that equipment used for road construction and equipment used for road maintenance do not constitute a single purpose within the meaning of the constitutional provision.

In *Nelson et al v. Jackson et al.*, 97 Mont. 299, 305, 33 Pac. (2nd) 822, our court held:

"Since the repair and maintenance of the roads of a county do not constitute a 'single purpose' within the meaning of the constitutional provision (*State ex rel. Turner v. Patch*, supra), the purchase of machinery for use upon all the roads of the county in repairing and maintaining them is not the expenditure of funds for a single purpose."

The question as to whether or not the purchase of the shovel and patrol can be made on the installment plan can be best answered by a former opinion rendered by the Attorney General of Montana in *Official Opinions of Attorney General*, Vol. 17, page 145, which in substance reads as follows:

"After a call for bids for the three-quarter yard full-revolving shovel bids were submitted to the county commissioners of Park County, Montana, and after a consideration of the bids the bid of the Petrie Tractor and Equipment Company was accepted.

"It is proposed to pay for this equipment by the giving of a conditional sales contract calling for interest at six per cent, payments to extend over a period of two years. \* \* \*

"I would appreciate having your office furnish me with an opinion as to the legality of the purchase of the equipment in this matter."

"This question was answered by an opinion of the Attorney General, October 4, 1934. See Opinion No. 619, Volume 15, Opinions of the Attorney General, p. 424. We agree with that opinion. No doubt in many instances where the budget does not otherwise permit, it is an advantage and desirable to purchase road machinery by this method of payment. In the absence of constitutional or statutory provisions forbidding it, we see no reason why the county commissioners may not make such contract. Having the power to purchase the property, the method of payment is also within the power of the county commissioners, subject only to such limitations as are provided by law.

"It is therefore my opinion that this contract is legal."

The advertising and request for bids is necessary where, as in this case, the contemplated purchase price is in excess of \$1000. Section 4605.1, Revised Codes of Montana, 1935, provides:

**"Section 4605.1. Request for bids necessary in making purchases exceeding one thousand dollars.** No contract shall be entered into by a board of county commissioners for the purchase of any automobile, truck or other vehicle, or road machinery, or other machinery, apparatus, appliances or equipment, or materials, or supplies of any kind, for which must be paid a sum in excess of one thousand dollars (\$1,000), without first publishing a notice calling for bids for furnishing the same, which notice must be published at least once a week, for three consecutive weeks before the date fixed therein for receiving bids, in the official newspaper of the county, and every such contract shall be let to the lowest and best responsible bidder; provided, however, that this act shall not apply to contracts for purchases, which in the opinion of the board are made necessary by fire, flood, explosion, storm, earthquake, or other elements, epidemic, riot, insurrection, or for the immediate preservation of order, or of the public health, or for the restoration of a condition of usefulness which has been destroyed by accident, wear or tear, mischief, or for the relief of a stricken community overtaken by calamity."

The purchase of the equipment in question by the letting of a single bid, while legal, should command the earnest consideration of the county commissioners. They should, if expedient, guard against the possible exclusion of prospective bidders who may be able to furnish one piece of equipment but not both.

It is therefore my opinion that:

- A. A Shovel used for road construction and a patrol used for road maintenance do not constitute a "single purpose" within the meaning of Section 5, Article XIII of the Montana Constitution.
- B. The board of county commissioners may purchase road machinery, costing in the aggregate of \$10,000, on the installment plan, extending over a period of two years, without first obtaining the approval of a majority of the electors of the county, when, as in this case, no single item of said equipment costs over \$10,000.
- C. The purchase of the road machinery in question, by the letting of a single bid, is legal and should be made in conformity with the provisions of Section 4605.1, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER  
Attorney General