

Opinion No. 84**Inventory—State Purchasing Agent—Annual and Supplementary Inventories—Secs. 82-1911 and 82-1912, RCM, 1947**

Held: Section 82-1911, RCM, 1947, is permissive and does not require an annual inventory of state property but authorizes the State Purchasing Agent to determine when an annual or supplementary inventory must be filed in his office.

December 1, 1958

Mr. W. F. Koch
State Controller
Capitol Building
Helena, Montana,

Dear Mr. Koch:

You have requested my opinion whether it is permissive or mandatory that an annual inventory be taken of all state property under the provisions of Sections 82-1911 and 82-1912, RCM, 1947. The answer to your inquiry is found in the legislative history relating to the disposition and control of state property.

Section 704, Political Code of 1895, made the Board of Examiners a board of supplies. Paragraph 4 of this section provided for an annual inventory of all supplies. This provision is now Section 82-1127 (4), RCM, 1947.

Section 405, Political Code of 1895, required the secretary of state to receive, dispose and account for all supplies purchased by the Board of Examiners. Chapter 56, Laws of 1905, required semi-annual reports of all state property to be filed with the secretary of state by all state officers and officials. This provision is now Section 59-706, RCM, 1947.

Chapter 197, Laws of 1921, created the office of the state purchasing agent and made him responsible for ". . . the purchase and sale of all supplies of whatever nature necessary for the proper transaction of the business of each and every state department, commission, board, institution or official . . ." Section 82-1902 RCM, 1947. Consonant with this control over all state supplies, the Legislature enacted Chapter 66, Laws of 1923 and Section 1 (Section 82-1911, RCM, 1947) provided:

"All persons in charge of any state property, must, upon request of the state purchasing agent, furnish him with a sworn statement of all personal property in his possession or under his charge belonging to the state of Montana, together with an estimate of the value thereof, and must also furnish such other information in connection therewith, as the state purchasing agent shall require."

Section 2 of Chapter 66, Laws of 1923 (Section 82-1912, RCM, 1947) provides in part:

". . . each state department, office, board, commission and institution must be charged with all items of personal property and all other personal property thereafter placed at the disposal of any such state department . . . and shall be credited with all worn out, used, lost, injured or destroyed property from time to time, as may be reported to the state purchasing agent, and shall be held responsible for all items of personal property not accounted for."

Section 82-1911, *supra*, does not require an annual inventory but authorizes the state purchasing agent to determine when an annual or supplementary inventory shall be submitted to his office. This authority harmonizes with the agent's control over all state supplies. However, the provisions of Section 82-1911, *supra*, are in direct conflict with those of Sections 82-1127 (4) and 59-706 in that the latter sections require an annual or semi-annual inventory and the former section makes it permissive for the Agent to determine when an inventory should be submitted. Also, Sections 82-1127 (4) and 59-706 require the inventory to be submitted to the board of examiners and the secretary of state. Section 82-1911 requires all inventories to be submitted to the state purchasing agent. In *State v. Holt*, 121 Mont. 459, 468, 194 Pac. (2d) 651 the court considered conflicting statutory provisions and stated:

". . . While it is said repeals by implication are not favored and if possible conflicting provisions of statutes should be reconciled, where the inconsistency is such as plainly may not be reconciled, the courts do not hesitate to declare the earlier statutes repealed by the later legislative expressions."

The legislative history indicates an intent to make the state purchasing agent the sole authority over all state supplies. The submis-

sion of inventories to this office is a necessary detail to ascertain the amount and disposition of state property. Sections 82-1911 and 82-1912, supra, are the latest enactment and control over the provisions of Sections 82-1127 (4) and 59-706, RCM, 1947.

Therefore, it is my opinion that Section 82-1911, RCM, 1947, is permissive and does not require an annual inventory of state property but authorizes the state purchasing agent to determine when an annual or supplementary inventory must be filed in his office.

Very truly yours,
FORREST H. ANDERSON
Attorney General