

## Opinion No. 16-1710

January 10, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Ira L. Grimshaw, Supreme Court Reporter, Santa Fe, New Mexico.

**As to the making of contracts for the publication of opinions of the Supreme Court.**

### OPINION

{\*281} In response to your oral request today I have made some examination of the statute law relative to the publication of the volumes of decisions of the Supreme Court, and especially with a view to ascertaining what, if any, power the present governing board of the library may have as to such publication, or as to making any contract for such publication.

By the act of the territorial legislature of 1889 there was created a board of trustees to have the management, control, and supervision of the territorial library, consisting of the judge of the district court for the county of Santa Fe, and two other persons, residents of Santa Fe, to be appointed by him. This act appears in the Compiled Laws of 1897, at Sections 2187 to 2214, both inclusive, and again appears in the new codification at Sections 5291 to 5313, both inclusive. It is all specifically repealed by Section 13 of Chapter 47 of the Laws of 1915. There is nothing in it on the subject of the reports of the Supreme Court beyond what might be implied from the power given to the board to purchase all books for the library, for which an appropriation had been made.

While this act continued in existence provision was made in Section 9 of Chapter 112 of the Laws of 1905, which chapter was the general appropriation bill of that year, for the making of a contract by the territorial library board of trustees, for the printing, binding and delivery of three hundred copies of each volume of the decisions of the Supreme Court for a period not exceeding ten years. I understand that that contract was made, and that it must have expired at some time during last year. I cannot discover in this piece of legislation any continuing authority to renew such a contract or {\*282} to make a new one even if the old board of trustees had continued in existence. That board, however, ceased to exist upon the passage of Chapter 47 of the Laws of 1915, and an entirely new and different board was created, which has, however, a power like that already mentioned, which the old board had, to order and purchase all books for the library, for which an appropriation shall have been made, and it is given full and complete management of all of the financial affairs of the library. It does also contain a section on the subject of the copies of the reports of the Supreme Court distributed to public officers being the property of the state, but even this section does not indicate that those reports fall under the charge and control of the board of trustees of the library.

I am of opinion, however, that the authority to the board to order all books for the library, for which an appropriation has been made, can reasonably be construed as giving the board power to order Volumes 19, 20 and 21 of the New Mexico Reports, for which appropriations are made in Chapter 86 of the Laws of 1915 at pages 129 and 130 of the published laws of that year, and if so, that appears to be the limit of their power and authority as to the reports.

There is no distinct legislative authority anywhere for the preparation and publication of the reports, except as may be inferred from the appropriation for the salary of a reporter and law clerk, and from the appropriation already referred to for volumes 19, 20 and 21. The mere naming of an officer to be known as the reporter for the court would carry with it, by implication, that it is his duty to prepare the volumes for publication and to supervise that publication. I believe that nothing can be found in the statutes giving any other officer any duty or authority in the matter.

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