

Opinion No. 17-1984

April 26, 1917

BY: HARRY L. PATTON, Attorney General

TO: Hon. R. E. Brown, County Treasurer, Clovis, New Mexico.

County Treasurer May Contract With Other Than the Official Printer for Publication of Tax List.

OPINION

I have delayed answering your letter of the 18th instant because of the unusual amount of work with which this office has recently been confronted. You ask whether or not the County Treasurer can contract with other than the official printer for the publication of the delinquent tax list.

Section 1234, Code of 1915, is as follows:

"When the county commissioners of the several counties have chosen a county printer, each county official shall employ the said printer for all county printing within his control."

Chapter 58, Laws of 1915, reads, in part, as follows:

"Within forty-five days after the first day of June in each year, the Treasurer and Ex-officio Collector shall prepare and cause to be published, once each week for four consecutive weeks, in some newspaper published and of general circulation in his county, or if there be no newspaper published in the county, then in some newspaper published in the State and of general circulation in the county, a notice that he will, on the date specified in such notice, at the hour of ten o'clock in the forenoon, at the court house of the county, offer for sale, separately and in consecutive order, each parcel of property upon which taxes are delinquent as shown by the tax rolls, or as much thereof as may be necessary to realize the respective amounts due."

The question to be determined is whether or not Chapter 58, Laws of 1915, repeals Section 1234, so far as it related to the publication of the delinquent tax list. I am of the opinion that it does, and that the Treasurer may contract independently of the Commissioners with "some newspaper," whether such paper is the official paper or not. The case of *Washington vs. Purdy*, 14 Wash. 343, 44 Pac. 857, is directly in point. The facts in that case disclose that there was a general law in the State relating to official county printers, and a subsequent law was enacted, providing for the publishing of delinquent tax lists by the Treasurer. It was held that the latter act repealed the prior general law and gave the Treasurer authority to contract with other than the official printers. The case of *Washington County vs. Kemp* (Ind.) 43 N. E. 314, is a similar case

and sustains the doctrine announced in the Washington case. The words "in some newspaper" seem to give the Treasurer authority to print a notice where he elects, and the phrase "some newspaper" has been held to mean any newspaper. This was recited in Allen vs. County Commissioners (Okla.) 73 Pac. 286, in which case the facts were almost identical with the facts with which we are confronted in this instance.

I find no provision of our statute which requires the letting of such contract by bid. I will say, however, that I think your course of letting this contract to the lowest bidder is commendable, and, from an economical standpoint, should be pursued in the future.

My predecessor, Attorney General Clancy, in his volume of opinions for 1915 and 1916, at page 303, holds that the rate paid must be confined to the limit of rate for publication fixed by Section 4644, Code 1915, and in this opinion, I concur.

NOTE: -- The views expressed in the above letter were confirmed by the opinion in Torres vs. Commissioners of Socorro County, 23 N.M., 171 Pacific, 510.