

**OPINION
69-124**

November 28, 1969 (OPINION)

Mr. L. J. Schirado

State's Attorney

Morton County

RE: Counties - Publication of Commissioner Proceedings - Content of

This is in reply to your letter of November 24, 1969, relative to publication of county commissioner proceedings. You ask the following questions:

"This office respectfully requests of your office an opinion relative to the content and extent of publication of County Commissioner proceedings in the official newspaper of the County. Specifically, is it permissible for a County to publish a fair and concise statement of what transpired at a meeting or must such publication be a verbatim account so as to comply with Section 11-11-37 N.D.C.C.? The specific inquiry being, must the published proceedings itemize each claim voucher relative to general bills and road and bridge bills or may such expenditures be categorized such as, general bill evidenced by Warrant numbers 1 to 100, together with the total sum of such vouchers and road and bridge bills evidenced by numbers 100 to 200, together with the total sum of such vouchers?"

Section 11-11-37 of the North Dakota Century Code provides as follows:

"PROCEEDINGS OF BOARD OF COUNTY COMMISSIONERS TO BE PUBLISHED IN OFFICIAL NEWSPAPER - WHEN PUBLISHED. The board of county commissioners shall cause to be published in the official newspaper of the county a full and complete report of its official proceedings at each regular and special meeting. The publisher of the official newspaper shall cause the report of the proceedings of the board of county commissioners to be published in the issue of his paper next succeeding the time of its reception, and shall cause to be filed with the county auditor an affidavit of publication executed in the proper form."

We would note that the above quoted section has not been materially altered since its publication in the 1925 Supplement to the 1913 Compiled Laws. On March 2, 1936, this office issued an opinion concerning the construction of this provision in which we held it was not required to publish a verbatim account of the meeting but the publication must consist of a fair statement of what transpired at each meeting. (See page 62, Report of the Attorney General for the period July 1, 1934 to June 30, 1936.) This opinion has been adhered to since its issuance and this is the present opinion of this office.

With regard to the itemizing of claim vouchers in the publication, this office on July 25, 1946, issued an opinion in which we concluded that election expenses must be itemized and could not be "lumped" together. This opinion, reported on page 62 of the Report of the Attorney General for the period of July 1, 1946, through June 30, 1948, stated in part:

"You will note that the section above quoted requires the county commissioners to cause to be published a full and complete report of its proceedings. I cannot conceive that lumping all of the expenses of the primary election as one item constitutes a full and complete report of the payment of the items involving the expenses of the primary election. Undoubtedly, the figures '46051 to 46219' refer to the warrant numbers drawn in payment of the lump sum indicated. The public, or any person who felt that he wanted to ascertain the items involved in the lump sum stated, would have to go to the auditor's office and examine the warrant record to ascertain the amounts paid to the various inspectors, judges, clerks, and other expenses involved in the election. I do not believe that that is the intent of the law. Publication of official proceedings has a very definite purpose in our representative form of government. It not only serves as a means of information, but as a deterrent upon public officials in the management and expense involved in official duties."

The opinion further noted that the information is important to the public as all of the expenditures of the county commissioners in performance of official duty involve the payment of public money. The opinion also noted that Section 11-11-39 of the Code provides for an appeal from a decision of the Board of County Commissioners by any person aggrieved thereby and it is conceivable that if an itemized statement were published, some taxpayer might object to the amount of some item and contest the right of the Commission to allow the same. The opinion notes this could not be done if the expenditures were not itemized.

While the 1946 opinion referred to herein is concerned directly with the itemizing of election expenses, the rationale of the opinion is obviously applicable to all expenditures of the county. There would be no valid reason for itemizing election expenditures of the county and not itemizing other expenditures of the county, and this office has previously indicated the 1946 opinion applies to all expenditures of the county except those salaries of county officials which are indicated to be exempt under the provisions of the 1936 opinion. The 1936 opinion indicated that the resolution fixing the salaries of deputies and clerks should be made a part of the published proceedings of the Commissioners when adopted and thereafter when the salaries allowed pursuant to such resolution are paid they need to not be mentioned in the Commissioners' proceedings, as they are not required to be allowed by the Commissioners after they have been once established by the Commissioners. The opinion also indicates that the warrants issued for salaries to elective officers do not constitute a part of the Commissioners' proceedings except that the resolution which may be adopted by the Commissioners fixing those salaries at the amounts established by statute is, when adopted by the Commissioners, a part of the proceedings and should be published.

In summary, it is our opinion that expenditures may not be categorized by grouping of warrant numbers, together with the total sum of such vouchers, but that such expenditure must be itemized in the published proceedings.

HELGI JOHANNESON

Attorney General