

January 23, 1951 (OPINION)

COUNTIES

RE: Purchase and Sale of County Equipment

You inquire whether a county may, in advertising for the purchase of highway equipment under section 24-0504 of the North Dakota Revised Code of 1943, combine in the same advertisement and proceeding the public sale of used equipment owned by the county under Sections 11-2701 to 11-2703 of the Revised Code of 1943, thereby permitting a trade-in on the purchase of the new.

You state that certain bidders have contended that the Attorney General of the state of North Dakota has heretofore given an opinion to the effect that this was not legal. Our search of the office files fail to disclose any such opinion and if there is any such opinion outstanding, the same is hereby by this opinion in all things overruled.

After careful consideration we are of the opinion that there is no objection to the combination of the two proceedings for purchase and sale of county equipment in order to permit the commissioners to trade in old equipment and use the trade-in as part of the purchase price of the new, provided, of course, that the public notice required by statute is given as to both the sale and purchase.

The courts have held that the county commissioners are vested with the general management of the fiscal affairs of the county and in such management, they should use the same care and caution which they would use in handling their own private affairs. We believe it goes without saying that any one who has on hand a great deal of used equipment would make an effort to trade such equipment in on any new equipment purchased. We, therefore, believe that it is not only the right but the duty of the county commissioners to proceed as outlined in order that the county may get the benefit of the trade-in of the old equipment.

ELMO T. CHRISTIANSON

Attorney General