

OPINION
53-34

July 25, 1953 (OPINION)

ELECTIONS

RE: Expense of Providing Polling Place

Yours of July twenty-fourth regarding rental, lights, and janitor for place to hold an election, has been received.

Section 11-1114 North Dakota Revised Code enumerates the powers of the county commissioners. Among these powers is:

"6. To establish election precincts in the county."

It is our opinion that this provision means that the county shall provide for each precinct a suitable room or place for the holding of elections, with proper heat and light. This presupposes that the county should pay rental for the polling place and for suitable lights. It is hardly reasonable that the commissioners could designate a certain building owned by a private party and force him to surrender control of the same to the election officials, and to furnish heat and light without due compensation therefor. Private property may not be taken for public use without due compensation.

The fact that certain statutes provide that the county should furnish ballots, ballot boxes, booths, clerks and election boards does not mean that the county should not be liable for the items above mentioned.

We have examined the published opinions of the attorney general since 1928, but do not find that any opinion has been given covering this matter. It is, therefore, our opinion that the county is liable for:

1. Rental charge for use of building for both primary and general elections.
2. Charge for lights in such buildings, and
3. Janitor charge, for sweeping and cleaning the room wherein the election was held.

ELMO T. CHRISTIANSON

Attorney General