

G. A. YOUNGQUIST
ATTORNEY GENERAL
JAMES E. MARKHAM
DEPUTY ATTORNEY GENERAL

CORRESPONDENCE SHOULD BE
ADDRESSED TO THE ATTORNEY GENERAL

State of Minnesota
Legal Department
St. Paul

CHARLES E. PHILLIPS
VICTOR E. ANDERSON
WILLIAM H. GURNEE
CHESTER S. WILSON
JOHN F. BONNER
HARRY J. ACTON
WALTER F. WIELAND
ASSISTANT ATTORNEYS GENERAL

June 11, 1938.

COPY

The Lawyers Co-operative Publishing Co.
Rochester, New York

Gentlemen:

I acknowledge your letter of the fifth instant,
addressed to the attorney general, and relating to obligation
of sale and delivery as required of bound volumes

Minnesota Reports.

I have gone over the contracts in which you appear
to be interested, and the following matter is here set down for
your information and the information of the inquirer who brought
the matter to the attention of this department.

1. On October 1, 1903, the state made a contract with
Frank P. Dufresne for the publication of these reports for the
term of six years from March 4, 1903, at \$1 per volume. This
contract contained this requirement:

"That said party of the second part shall
at all times keep the volumes so published
by him on sale at the city of St. Paul
in said state of Minnesota, and sell the
same to the general public for the uniform
price of \$1 per volume."

There was the further requirement that the publisher
should sell and furnish the state such number of additional copies
as it might thereafter require, at the contract price.

Under date of October 28, 1903, Dufresne assigned this
contract to the Lawyers Co-operative Publishing Company, "they to
carry out and execute such contract and receive all the advantages
thereof". The company formally accepted the assignment by notice

3991

The Lawyers Co-operative Company - 2.

filed in the office of the secretary of state.

2. On May 8, 1909, the state made a contract with the Lawyers Co-operative Publishing Company for the publication of these reports for the term of six years from October 1, 1909, at \$1 per volume. This contract also contained the requirement that the publisher at all times shall keep these volumes on sale in quantities of one or more copies at any one time, and upon reasonable notice of not less than ten days for the price stated in the contract.

Under these two contracts volumes 93 to 130, both inclusive, were published, and it is my understanding that your obligation relates to these volumes.

3. On July 6, 1915, the state made a contract with the Keefe-Davidson Company for the publication of these reports for the term of six years from October 1, 1915, at ninety cents per volume if delivered at its office in Minneapolis, or \$1.35 per volume if delivered elsewhere in the state, and undertook at all times to keep the volumes on sale in quantities of one or more copies at any one time, and upon reasonable notice here, for the price specified in the contract.

This contract was cancelled pursuant to the provisions of chapter 420, Laws 1919, which authorized the cancellation thereof whenever another publisher should enter into a contract with the state for the publication of the reports at \$1.75 per volume, if delivered at St. Paul, or \$2.10 per volume if delivered

The Lawyers Co-operative Company - 3.

elsewhere within the state.

From the facts stated we reach the conclusion that you are under continuous obligation to furnish the volumes of reports published under contracts to those desiring to purchase at the price specified in the contract, and that this obligation is not in any manner affected by chapter 420, Laws 1919, under which the Koeffe-Devickson Company contract was cancelled.

I may add that the state, under existing legislation, has not required and will not require any additional volumes. The duty of the secretary of state to deliver free to the judges of the various courts of the state, and to other designated public officials copies of these volumes, is fully met when he has distributed the volumes expressly required by the contract to be furnished to him in the first instance for the purposes of such distribution. I note from your letter:

"We have as a convenience and courtesy, provided a place in Minnesota where these reports can be obtained. The Marvin Law Book Company acts as our agent and we have had no advice from them that they are not in a position to make prompt deliveries of any or all volumes which were published under either contract in which my company has been interested."

Your further comments, if any, will be welcome and will receive prompt attention.

Sincerely yours,
James E. Markham

Deputy Attorney General

JEM/CD

MEMORANDUM

Publication Minnesota Reports
(See letter June 11, 1928, to Lawyers Co-operative
Publishing Co., Rochester, N.Y.)

I have this day, for the purposes of the letter mentioned above, examined the following contracts on file in the office of the secretary of state:

1. Contract Frank B. Dufresne, April 10, 1897, six years, \$1.50 per volume. Begins with volume 68.

2. Contract Frank B. Dufresne, October 1, 1903, six years from March 4, 1903, \$1 per volume. Begins with volume 93 and continues to and including volume 130.

Under date November 28, 1903, Dufresne assigned this contract to the Lawyers Co-operative Publishing Co., "they to carry out and execute such contract and receive all the advantages thereof". The Lawyers Co-operative Publishing Co., by notice to the secretary of state, typed on the same sheet, accepts the assignment and agrees to carry out the contract in all particulars. This acceptance is signed "The Lawyers Co-operative Publishing Company, by Wm. B. Hale, President, B. A. Rich, Secretary". This assignment and acceptance was recorded in the office of the secretary of state on November 10, 1905, as appears by endorsement thereon.

3. Contract Lawyers Co-operative Publishing Company, May 8, 1909, six years from October 1, 1909, \$1 per volume.

Under these two contracts volumes 93 to 130, both inclusive, were published.

4. Contract Keefe Davidson Co., August 2, 1915, six years from October 1, 1915, \$.90 per volume. Begins with volume 131 and continues to and including volume 143.

This contract seems to have been annulled pursuant to chapter 420, Laws 1919. Consent to such annulment signed by Bronson West, Welles Eastman and Richardson Phelps, under date of May 15, 1919, filed in the office of the secretary of state May 18, 1919.

5. Contract The Pioneer Incorporated, on form prescribed by chapter 420, Laws 1919, May 14, 1919, "begins with volume 141 and up to and including October 1st, 1921", \$1.75 per volume in St. Paul, \$2.10 elsewhere in the state,

"and at all times keep the same on sale at its office in the city of St. Paul, Minnesota, in quantities of one or more copies at any one time upon reasonable notice of not less than ten days, for the price agreed upon in said contract. The second party also agrees during the term of this contract to keep on sale at all times at its office in St. Paul, Minnesota, at prices which shall not exceed the schedule of prices herein set forth, volumes 131 to 140 both inclusive of said Minnesota Reports heretofore printed and published pursuant to the contract of July 6, 1915, referred to in section 1 of this act."

It appears from labels that Pioneer Incorporated was the publisher of volumes 143 to 147 inclusive.

6. Contract with LaValle Law Book Co., September 15, 1921, six years from October 1, 1921, \$2.75 per volume at St. Paul, \$3.00 elsewhere in the state. Begins with volume 148 and continues to and including volume 171. This contract contains substantially the same provision that at all times it will keep these reports on sale at its place of publication at St. Paul, and will sell and deliver them to any person wishing to purchase at the specified prices "but will not be obligated to sell at these prices more than one copy to any one purchaser." It contains the further provision that

"the company at all times shall keep on hand and furnish to the state such additional copies of reports as may be required for delivery to the state and county officers at the contract price herein specified".

The performance of this contract is guaranteed by bond in the amount of \$5000, dated September 15, 1921, with National Surety Company of New York as surety.

7. The present contract is with the LaValle Law Book Company, in accordance with the requirements of chapter 379, Laws 1927. Details of this are not important for the purposes of this memorandum.

Deputy Attorney General.

3991

3991

STATE OF MINNESOTA
DEPARTMENT OF STATE

FILED

JUN 12 1928

W. H. Johnson
Secretary of State