

Rivers, Discharging Sewage Into. Cities and Towns, Discharging Sewage Into Rivers. Sewage, Discharging Into River.

If the discharge of sewage into a river so pollutes the waters thereof as to be dangerous to public health, the city, town or individual responsible therefor may be required to purify the sewage or discontinue discharging the same into the river.

October 30, 1911.

Doctor T. D. Tuttle,
Secretary, State Board of Health,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 2nd inst., stating that the city of Billings is discharging its sewage into the Yellowstone River, and that the board believes it entirely possible to demonstrate that this constitutes a menace to public health, and requesting me to advise you as to the proper method of procedure to require the city of Billings to purify its sewage in a manner to be approved by the state board of health.

In reply I will state that under the provisions of Chapter 66, Session Laws of 1911, a city or town shall not be prohibited or enjoined from discharging its sewage into a river or body of water un-

less such sewage so pollutes the waters thereof as to be dangerous to public health.

Sec. 1563 of the Revised Codes makes it the duty of the board to consult with and advise the authorities of cities and towns as to the best method of disposing of their drainage or sewage with reference to existing and future of other cities, towns or persons which may be affected thereby.

Your board should hold a meeting and take whatever steps that may be necessary to determine whether or not the discharge of sewage by the city of Billings into the Yellowstone River so pollutes the waters thereof as to be dangerous to public health; and if the members of the board find this to be a fact it should immediately take steps to advise with the City of Billings as to the best method of purifying this sewage or remedying the condition, and then to make an order requiring the city of Billings to comply therewith. In the event the city fails to comply with such order, application may be made to the district court to enforce the order.

I note from your enclosure that under date of September 31, 1909, you notified the city of Billings to discontinue discharging sewage into the Yellowstone River unless the same is purified in such manner as shall be approved by the state board of health. At the date of giving this order Section 1564 of the Revised Codes prohibited the discharge of human excrement into a stream unless the sewage should have been purified so as to render it harmless, in such manner and under such conditions as the state board of health might direct. Owing to the fact that this section has been amended, as above mentioned, it will be necessary for your board to find, as a matter of fact, that the sewage so pollutes the waters of this stream as to render it dangerous to public health and then take steps to remedy the fault as above suggested.

Very truly yours,
ALBERT J. GALEN,
Attorney General.