

**State Board of Land Commissioners.—State Lands.—Coal
Mining.**

Where patent has issued for lands containing coal, it is within the province of the Board of Land Commissioners to permit the mining of same upon any business basis which it may determine to be for the best interest of the State.

Helena, Mont., Dec. 16th, 1905.

State Board of Land Commissioners, Helena, Mont.

Gentlemen:—I am in receipt of a letter addressed to me by John P. Schmit, Register of the State Lands, at your direction, making a request for an opinion as to whether or not the State Board of Land Commissioners, under its general authority, can lease state lands for coal mining on the basis of a royalty or otherwise. This question arose specially with reference to the north half of Section 31, Township 33, North of Range 16 East, located in the vicinity of Havre, for which said lands patent has been issued and delivered from the United States Government to the State of Montana, and whereon certain parties were desirous of mining coal for the supply of the residents of Havre and vicinity.

After careful consideration of the questions by you presented and reference had to the provisions of the Enabling Act, Constitution and Statutes, I am of opinion that it rests within the absolute power of the State Board of Land Commissioners, under the general power and authority conferred upon them by law, to lease, handle or control such lands in any manner or upon any basis they may see fit, except as prohibited by law. So far as the state lands are concerned, the Board of Land Commissioners is constituted the agency for handling, controlling, leasing and disposing of such lands consistent with the provisions of the law, and they are given a judgment and discretion in the determination of questions of business policy with respect thereto.

I, therefore, advise you, that where patent is issued for lands containing coal, it is within the province of the Board of Land Commissioners to permit the mining of same upon any business basis which it may determine to be for the best interest of the State.

Yours very truly,

ALBERT J. GALEN,
Attorney General.