

Drainage Law, Appointment of Commissioner. County Commissioners, Power to Appoint Drainage Commissioner.

Under the law of 1905, page 254, where the county desires to avail itself of the drainage law, the commissioners may, at their regular meeting in March, 1905, or at any time thereafter, appoint a drainage commissioner.

Helena, Montana, March 20th, 1906.

Hon. W. T. McKeown, County Attorney, Kalispell, Montana.

Dear Sir:—I am in receipt of your letter of March 13th, in which you submit the proposition as to whether the board of county commissioners have the authority at their March meeting in 1906 to appoint a Drain Commissioner, said board having failed to make such appointment at its March meeting in the year 1905.

Under the provisions of Sec. 3, Art. 1 of the Act providing for the construction and maintenance of drains (laws of 1905, p. 254), it was the undoubted duty of the board, if the county desired to avail itself of the benefits of the act, to appoint such commissioner at the regular meeting in 1905, but the board having failed to make such appointment, a vacancy existed which might be filled by the board at any subsequent regular meeting or any special meeting called for that purpose. The board, however, by deferring action, cannot prolong the term of the party appointed commissioner, but such term expires on the 1st day of January, 1907, and the board must, at its regular meeting in September, 1906, appoint a commissioner whose term will begin on the 1st day of January, 1907.

Very truly yours,

ALBERT J. GALEN,

Attorney General.