

**School Lands, Right of State to Lease Unsurveyed.**

The State has no right to lease or collect rent for unsurveyed school lands.

Helena, Montana, July 1, 1907.

Hon. Joseph K. Toole,  
Helena, Montana.

Dear Sir:—

I am in receipt of your favor of the 21st ult., enclosing letter from Mr. William P. Flynn of Miles City, Montana, and requesting opinion from this office as to whether the State can lease and collect rent for unsurveyed lands.

I have had occasion in the past to make careful examinations of this question and am of the opinion that the State has not the right to lease such lands before survey, or to collect rent thereon, and this for the reason that until the lands are identified by government survey the state has not a vested right therein and cannot protect the lessee in his possession. I do not deem it necessary to review this subject in detail in this opinion for the purpose of showing you the reason for my conclusion, but for your better understanding respectfully refer you to an opinion rendered by this office on April 14, 1905, to the State Board of Land Commissioners, reported at p. 74, Official Report of Opinions of Attorney General, 1905-06, and also to an opinion rendered to Hon. John P. Schmitt, Register of State Lands, June 17, 1907, copy of which is herewith enclosed.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.