

County Commssioners, Powers Of. Powers of County Commissioners. Poor Farm, Easement in, Authority to Sell.

As a general rule the County Commissioners have the authority to sell "The County Poor Farm." or any part thereof or any easement therein.

Helena, Montana, March 22, 1907.

Hon. D. M. Kelly,
County Attorney,
Boulder, Montana.

Dear Sir:—

I am in receipt of your letter of the 7th inst., in which you state that at a special meeting of the Board of County Commissioners of your county called for the purpose of settling all damages that have accrued, or that may hereafter accrue, to the county Poor Farm, and to said county, by reason of tailings heretofore deposited, or that may be hereafter deposited, on said Farm by the concentrator of the Basin Reduction Company at Basin, Montana", said Board in consideration of twelve hundred dollars, granted to said company a perpetual easement for the the purpose of dumping tailings etc. upon a certain portion of the Poor Farm. The question submitted by you is whether this action was within the power of the Board of County Commissioners.

It is within the enumerated powers of a Board of County Commissioners to purchase land for County Poor Farm purposes, or to sell the same or any part thereof, when the interests of the purposes for which the farm is authorized to be purchased or sold demand it; and I can see no impropriety in the Board selling a perpetual easement, when they have a right to make an absolute sale of that portion of the farm. The particular facts of course, must govern in each case, but generally speaking the Board has this right. You will find this matter discussed to some extent, with citations of the law, in Opinions of the Attorney General, 1905-'06, p. 234, in a letter addressed to Hon. R. M. Hawkins, Chairman, Board of County Commissioners, Virginia City, Montana.

Yours very truly,

ALBERT J. GALEN,

Attorney General.