

County Commissioners, Business Transacted at Special Meeting. Deputy Sheriffs, Authority to Discontinue at Special Meeting of Commissioners. Sheriffs, Revocation of Appointments of Deputy by Commissioners.

County Commissioners have no authority to revoke appointments of special deputies at a special meeting, unless the call for such meeting designated the transaction of such business at the meeting.

Helena, Montana, June 10, 1909.

Board of County Commissioners,
Philipsburg, Montana.

Gentlemen:

I am in receipt of your letter of the 8th instant, requesting an opinion upon the following proposition:

The county commissioners notified the sheriff to lay off one of his special deputies, and he refused because he said that it was not a legal notice, the same not being adopted at a regular

meeting of the board. Whereupon the special deputy continued to work from the date of such notice up to the time of the next regular meeting, a period of twenty-four days.

The question presented upon the above facts is whether the county is liable for the salary of this deputy for said period of twenty-four days.

The statements of facts contained in your letter is not as complete as it should be. We assume from your statement that the deputy "was a special deputy," and by that you mean a deputy authorized by the board pursuant to section 3123, revised codes. If so, the board would have the right to revoke its order authorizing the appointment of such a deputy.

Your statement of facts does not show whether the order calling the special meeting stated that the board would consider the question of the appointment or revocation of the appointment of deputy sheriffs.

Section 2826, revised codes, provides for special meetings of the board of county commissioners, and states that the order calling such special meeting.

"Must specify the business to be transacted, and none other than that specified must be transacted at such special meeting."

If the order calling the special meeting specified therein that the board would take up the question of appointment of special deputies for the sheriff, then any action taken by the board pursuant to such order calling the special meeting would be valid, and the revocation of the appointment would have the effect of removing such special deputy from and after the date mentioned in the order. On the other hand, if the order calling the special meeting did not specify the particular business relating to the appointment of special deputies, then the board had no authority to act on such matter at such special meeting, and any action taken by them would be void, and would not, therefore, have the effect of removing such special deputy from office. In such case he would have the right to still continue as such special deputy until such time as the board, by a subsequent valid order, removed him from office.

Very truly yours,

ALBERT J. GALEN,
Attorney General.