

**Board of County Commissioners, Power to Sell Property.
Property, Real or Personal May Be Sold After Notice by Board
of County Commissioners.**

Under Section 2894, and also Section 2802, Revised Codes, as amended, the Board of County Commissioners should meet on the day fixed for the sale, and the per diem and mileage of the members should be charged and paid as at other meetings of the board. These costs and charges are not proper items to be added to the accrued costs in making sale of county property.

Helena, Montana, March 31st, 1909.

Hon. Jere Sullivan, Chairman, Board of County Commissioners, Fort
Benton, Montana.

Dear Sir:

I am in receipt of your letter of March 26, wherein you ask my opinion as to whether or not the Chairman of the Board of County Com-

missioners is entitled to per diem for services in selling, a public auction, real estate, town lots, etc., bought by the county for taxes and ordered sold by the Board of County Commissioners.

Section 2894, Revised Codes, subdivision 10 thereof, gives the Board of County Commissioners the power to sell at public auction, for cash, to the highest bidder, any property, real or personal, after thirty days previous notice by publication. Section 2682, as amended by the eleventh legislative assembly, provides that whenever the county has become a purchaser of real estate sold for delinquent taxes, and the same has not been redeemed within the redemption period, the board, after order duly entered in its minutes, may sell the same, provided that no sale shall be made or confirmed unless the price offered shall be sufficient to discharge all accrued taxes to date of sale, together with interest and cost. If this provision is complied with, then it would seem the duty of the chairman of the board to execute a deed conveying the title to the purchaser.

I do not understand that the cost referred to in Section 2862, as amended, would include the per diem or mileage of the chairman or other commissioners in coming to the county seat for the purpose of making the sale. The County Commissioners, in my opinion, should hold a regularly called meeting upon the day of the sale, at which the entire board, or a quorum thereof, should be present, and all the members present should participate in the sale of the property. The cost of mileage and per diem of this meeting should be paid for by the county as in cases of other meetings of the board, and no part of this mileage or per diem should be added to the price at which the property is sold.

Very truly yours,

ALBERT J. GALEN,

Attorney General.