

litical and discretionary in their character, to be exercised for the public good, and that the board of county commissioners is the organ through which its functions are mainly executed, still, when the law itself imposes a duty upon its commissioners as such, and they are not appointed thereto by the county, the county will not be responsible for their breach of duty, or for their non-feasance or misfeasance in relation to such duty."

The liability of a county for negligence is similar to that of a school district. The Supreme Court of this state recently decided, in the case of *Perkins v. Trask*, 95 Mont. 1, that a school district and the trustees of such district are not responsible for negligence of the trustees in the performance of their duties. It would, therefore, seem that the county is not responsible in damages in this case; neither do I believe the commissioners of the county are responsible. (*Laird v. Berthelote*, 63 Mont. 122; *State ex rel. Shea v. Cocking*, 66 Mont. 169, 177.)

In matters of this kind it is not possible to write an opinion which might not be altered by facts unknown at this time. I am merely giving you the authorities as I find them upon this subject.

Opinion No. 606

County Commissioners—Livestock —Poison—Insect Pests.

HELD: Neither the county nor the county commissioners is liable in damages by reason of injury to cattle from poison distributed to kill Mormon crickets.

August 31, 1934.

You submit a claim made against the county commissioners by an owner of livestock for damages by reason of injury to cattle from poison distributed to kill Mormon crickets. Since you have submitted no facts this opinion will necessarily be of general application only.

The general rule is that a county is not liable for its torts. (15 C. J. 568 et seq., 7 R. C. L. 954. *Counties—Key Nos. 141 to 148.*) Neither is it responsible for the negligence of its officers. (7 R. C. L. 956.) In the case of *Territory v. Board of County Commissioners*, 8 Mont. 396, we find the following language:

"We hold, then, that while a county is a corporation for many purposes, and as such, an independent legal entity endowed by law with a limited portion of the sovereignty of the state, and as such, charged with duties, po-