

**Opinion No. 321.**

**Insect Pest Destruction—County  
Commissioners—Powers of  
Inspector.**

HELD: The person appointed by the county commissioners to exterminate insect pests is authorized to enter on infected premises whether the owner consents or not.

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August, 1938.

Mr. H. B. Mills  
State Entomologist  
Bozeman, Montana

Dear Sir:

You have asked if the person appointed by the county commissioners to exterminate insect pests has authority to enter upon infested premises, for

the purpose of insect control, without first securing the property owner's consent.

The authorization for insect control is found in Section 4501, Revised Codes of Montana, 1935:

"Destruction insect pests by county commissioners. The board of commissioners of any county of this state, where there are any insect pests, are hereby authorized and empowered to appoint some suitable person or persons, whose duty it shall be, acting under the direction of the state entomologist, to poison, kill, catch, and exterminate insect pests within such county, and any such person so appointed is hereby empowered and directed to enter upon any farm, railroad right of way, grounds or premises infested with such insect pests and poison, kill, catch, and exterminate the insect pests therein."

It has been uniformly held to be proper exercise of the police power of the state to enact such statutes as Section 4501 for the protection of the agricultural and horticultural interests of the state. (*Colvill v. Fox*, 51 Mont. 72. See also *Riverside v. Butcher*, 65 Pac. 745; *State v. Bartlett*, 192 Pac. 945.) And the inspector of the commission designated by the legislature may exercise such ministerial powers as are reasonably necessary to accomplish the purpose of the Act. (*Colvill v. Fox*, *supra*.)

Therefore it is my opinion that such inspector is authorized and empowered to enter upon infected premises, for purposes of insect control only, whether the consent of the property owner can be obtained or not.