

**County Commissioners, Power to Construct a Bridge in City.  
Bridge, Power of County to Construct in City. Highways,  
Jurisdiction of in City.**

County commissioners have no authority to construct a bridge within the corporate limits of a city or town.

August 11th, 1913.

Hon. J. A. Slattery,  
County Attorney,  
Glendive, Montana.

Dear Sir:

I am in receipt of your letter of the 5th instant, submitting the question:

"Is it within the jurisdiction and duty of the board of county commissioners to provide for the construction and maintenance of bridges in incorporated cities and towns?"

Authority is conferred upon city or town councils to exercise authority over streets and alleys, and in Subdiv. 6 of Sec. 3259, R. C., it is provided with reference to the powers of such bodies:

"To lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, parks and public grounds, and vacate the same."

The council also has the authority to establish grades and determine the location of streets, in fact to exercise exclusive jurisdiction over them, and by the provisions of Sec. 3376, R. C., authority is conferred upon city or town councils to construct and maintain bridges, etc. The provision in the law of 1913, Sec. 1, Chap. 5, page 153, to the effect that all public bridges are maintained by the county at large, is the same provision that is found in the Revised Codes, as Sec. 1411, enacted in 1903. Hence the law relating to the power of county boards and the power of city and town councils is not changed by this act of 1913.

In *Ford v. Great Falls*, 46 Mont. 292, decided November 11, 1912, the court in passing upon the power of municipalities, confirms the authority conferred upon them by Subdiv. 6, above quoted, and also confirms the power in city councils to create special improvement districts for certain purposes, etc. The general powers of cities and towns are also considered by the court in *Stadler et al. v. City of Helena*, 46 Montana, 123, wherein the jurisdiction of the city to exercise authority over the places within the corporate limits is also confirmed. A bridge is in effect only a part of the public highway, as is the case with a ferry. (*Reid v. Lincoln Co.*, 46 Mont. 31.) Chapter 72, Laws of 1913, is only a re-enactment of the general highway law of the state, and neither adds to nor detracts from the power conferred upon city councils, and so far as the county boards are concerned, it deals only with highways within the jurisdiction of such boards, and does not confer upon them authority to invade the corporate limits of a city or town. When a city or town is incorporated it acquires all the power and authority given to such municipality, and also all the duties and obligations, and among them is that of maintaining public highways; that is, streets within the corporate limits. From these considerations I reach the conclusion that the board of county commissioners have no jurisdiction over highways within the corporate limits of a city or town, hence that they have no jurisdiction to construct bridges herein.

Yours very truly,

D. M. KELLY,  
Attorney General.