

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 21st, 1913.

Hon. James M. Blackford,  
County Attorney,  
Libby, Montana.

Dear Sir:

I am in receipt of your letter of the 15th instant, submitting the following questions:

"1. Can a county of this state through its board of county commissioners legally join with a corporated town or city therein in the erection and construction of a public bridge wholly within the corporate limits of the town or city, said bridge crossing a stream flowing through the corporate limits of the town or city?

"2. Can a board of county commissioners build and construct a bridge within the corporate limits of a town or city situate in the county, the said bridge crossing a stream flowing through the city at a point on the main street, said street terminating at each end hereof with the public highway?"

Substantially the same questions were considered by this department in an opinion given to Hon. J. A. Slattery, county attorney, Glendive, Montana, under date of August 11, 1913, in which the conclusion was reached that the county did not have the authority to construct and maintain bridges within the corporate limits of cities and towns. A copy of this opinion is herewith enclosed. This conclusion is also strengthened by the provisions of Sec. 1, Chap. 2 of Chap. 72 of the Session Laws of 1913, wherein provision is made by which incorporated cities and towns may become exempt from the road tax, both general and special, therein provided for.

A street is a public highway within an incorporated city or town, and under the statute of this state such city or town is given absolute jurisdiction over the same, and I do not believe any authority exists for using the county road moneys for the construction of bridges or making of any other improvements on public highways in any place, beyond the jurisdiction of the county board.

Yours very truly,

D. M. KELLY,  
Attorney General.