

County Commissioners, Powers of. Public Bridges, Abandonment of. Abandonment, of Public Bridges. Powers, of Board of Commissioners to Abandon Public Bridges.

Public bridges are under the management and control of the Board of County Commissioners. Where it is sought to abandon or remove a public bridge the jurisdiction of the Board is limited and may be exercised only in the method pointed out by Chap. 4, Chap. 72, Laws of the 13th Legislative Assembly for discontinuing highways.

June 27, 1914.

Hon. Robert C. Stong,
County Attorney,
Billings, Montana.

Dear Sir:

I am in receipt of your request for an opinion upon the following proposition:

"Can the Board of County Commissioners abandon and remove a bridge over a public highway, without being petitioned to do so by ten or more freeholders of the road district containing the bridge?"

Public bridges are under the management and control of the Board of County Commissioners Sec. 1, Chap. 5, Chap. 72, Session Laws of the 13th Leg. Assembly, p. 153), but bridges are to be treated as a part of the highway, and are not county property, but belong to the public.

State vs. Ritch, 140 Pac., 731 Mont.

Where it is sought to abandon or remove a public bridge, the jurisdiction of the Board is limited and may be exercised only in the mode pointed out by the provisions of Chapter 4 of Chapter 72, *idem.*, p. 147, wherein it is provided that when it is sought to abandon, alter or discontinue a highway, a petition therefor signed by any ten, or a majority of the freeholders of the road district may be made to the Board. Until the public by the mode indicated, demands it, the Board is without jurisdiction to proceed, and it remains the duty of the Commissioners to maintain and keep the bridge in question in proper repair and condition for the accommodation and safety of the traveling public.

In your letter you set forth that you have advised the Board that the procedure pointed out by the provisions of Chapter 72, *idem.*, with reference to abandonment of roads, must be followed. From what has been said above, I am of the opinion that your conclusion is correct.

Yours very truly,

D. M. KELLY,
Attorney General.