

Railroad and Public Service Commission, Power Over Crossings. Crossings Installed, Cost of Paid by Whom. Highways, Crossing by Railroads.

Under the provisions of Chapter 18 of the Session Laws of the Thirteenth Legislative Assembly, it is the duty of railroad companies to put in and maintain crossings where public highways established by boards of county commissioners cross such railroads.

April 3, 1915.

Hon. Railroad & Public Service Commission,
Helena, Montana.

Gentlemen:

I am in receipt of your communication under date the 26th ultimo, asking as to whether, under the laws of this state, a county is charged with the duty of paying the expense of installing a crossing upon a highway laid out by the county commissioners? You state that a case arises in Musselshell County where the Great Northern Railway Company is asking the county to sign an agreement that the county will stand all the expense of installing a crossing over the tracks of the railway company, upon a road recently declared by the County Commissioners. This question was in a way touched upon in an opinion to your Commission from this office under date of January 7, 1914, found at page 396 of Volume 5 of the Opinions of the Attorney General. In addition to the duties imposed by Chapter 65 of the Session Laws of the Thirteenth Legislative Assembly, I find that Chapter 18 of the same Session Laws, makes specific provision for such cases as the one described in your inquiry.

In view of the specific provision of law, as expressed in Chapter 18 of the Session Laws of the Thirteenth Legislative Assembly, and the general doctrine, as laid down in the case and authorities cited in the opinion heretofore rendered you, I think there can be little doubt as to the liability of the railroad company to construct and maintain crossings upon their right of way, where their roads are crossed by public highways.

Yours very truly,

D. M. KELLY,

Attorney General.