

**Special Improvement District—Surrender of Control of
by County Commissioners to City Authorities.**

County Commissioners have no authority to surrender control of special improvement district within limits of city, subsequently incorporated, to municipal authorities.

December 18, 1918.

Mr. Fred C. Gabriel,
County Attorney,
Malta, Montana.

Dear Sir:

Replying to your letter of December 11, 1918, I have to advise that I know of no way in which the County Commissioners of Phillips County can legally surrender to the municipal authorities of the town of Dodson, recently incorporated, jurisdiction and control over a special improvement district created under the provisions of Chapter 123 of the Laws of the 14th Session of 1915, before the incorporation of said town.

It is elemental that governing bodies such as Boards of County Commissioners and town councils possess only such authority as is expressly conferred upon them by law or as is necessarily implied for the exercise of powers expressly given. Chapter 123, supra, contains no provision authorizing the County Commissioners in case of the subsequent incorporation of a thickly populated community, to surrender to the

- municipal authorities control of special improvement districts created under the terms of said act. Neither is there any reason for assuming the existence of such authority as a necessary conclusion following either from the incorporation of a town or necessary for the exercise of any other powers expressly given County Commissioners. I see no objection to the County Commissioners making such arrangements with the town officials for the mere operation of the plant as may be mutually convenient, provided the former do not surrender control over the district nor in any way seek to transfer to the municipality any of the functions and duties imposed upon the Commissioners by virtue of the creation of said improvement district.

Respectfully,

S. C. FORD,

Attorney General.