

struction and maintenance of a civic center to be located in the City of Missoula, Montana?

Chapter 71, Laws of 1945, grants the power to a city or town to contract an indebtedness by issuing bonds for the purpose of constructing and equipping a civic center. The act also provides for a levy to maintain the same.

There is no provision in the act for the participation of the county in the construction and maintenance of the civic center and I also failed to find any statute specifically authorizing a county to construct a civic center.

Section 4630.1, Revised Codes of Montana, 1935, as amended by Chapter 135, Laws of 1937, provides in part:

"The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate and sell coupon bonds on the credit of the county, as hereinafter in this act more specifically provided, for any of the following purposes: . . .

"Subdivision (b). For the purpose of constructing, erecting or acquiring by purchase necessary public building within the county, under its control and authorized by law, making additions to and repairing buildings and for the purpose of furnishing and equipping the same."

Our Supreme Court in *Yegen v. Board of County Commissioners*, 34 Mont. 79, 85 Pac. 743, said:

"But what are necessary county buildings? Manifestly such as are required for ordinary county purposes."

It cannot logically be maintained that a civic center would be necessary for ordinary county purposes. In 43 Am. Jur. 300, the text states:

"The power of political subdivisions to issue bonds must be expressly conferred, or, according to most of the authorities, be necessarily implied for the execution of other powers expressly given which cannot fairly or properly be exercised without it. Doubt as to the authority of a municipal corporation to issue bonds should be resolved against its existence."

Opinion No. 111.

Bonds, County—Civic Center, County may not Construct—Counties—County Commissioners—Buildings, County Purposes.

Held: Under the present status of the law, a county has not the power or authority to issue bonds for the purpose of constructing a civic center.

January 2, 1946.

Mr. Oskar O. Lympus
County Attorney
Missoula, Montana

Dear Mr. Lympus:

You have submitted for my consideration the following question:

May the County of Missoula issue bonds for the purpose of joining with the City of Missoula in the con-

While the county may issue bonds for certain enumerated purposes, yet there is no specific power granted to build a civic center, and thus a doubt is raised which would preclude the issuance of bonds.

Another limitation that is applicable is the rule set out in *Lewis v. Petroleum County*, 92 Mont. 563, 17 Pac. (2d) 60, in which case the court said:

"The principle is well established that the board of county commissioners may exercise only such powers as are expressly conferred upon it or which are necessarily implied from those expressed, and that where there is a reasonable doubt as to the existence of a particular power in the board of county commissioners, it must be resolved against the board, and the power denied."

There is no express or implied statutory authority which grants the county authority to construct a civic center either by itself or in conjunction with a city, and it is also apparent that such a building is not a necessary county building. I agree with your conclusions expressed in your letter requesting this opinion.

It is therefore my opinion under the present status of the law, a county has not the power or authority to issue bonds for the purpose of constructing a civic center.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General