

Opinion No. 21-2817

February 4, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Honorable James L. Wade, Representative, San Juan County, Santa Fe, New Mexico.

Authority County Commissioners to Purchase Privately Constructed Bridge.

OPINION

{*23} In reply to your oral request for an opinion regarding the authority of the Board of County Commissioners to buy a bridge at Blanco heretofore constructed by private parties, and which, as I understand, the county may purchase at a fraction of what the construction of a new bridge would cost, I wish to advise you as follows:

The jurisdiction over roads, highways and bridges, is vested jointly, at the present time, in the State Highway Commission and the County Road Superintendent, subject to the supervision of the Board of County Commissioners.

Section 12 of Chapter 38, Laws of 1917, provides that the rights of way deemed necessary by the State Highway Commission for highways constructed under the provisions of that act shall be acquired by the county either by donation by the owners of the land through which such highways shall pass, or by agreement between such owners and the Board of County Commissioners of such county, or through the exercise of the power of eminent domain in the same manner as provided for acquiring property for other public uses.

Section 13 of the act then provides "that for the purposes of this act, necessary bridges, culverts and other appertaining structures on any highway shall be considered a part of such highway."

You will note that the Boards of County Commissioners have the right, under the authority in Section 12, to acquire by agreement, rights of way for highways and that, under the provisions of Section 13, bridges are considered a part of such highways.

These two sections, therefore, grant specific authority for the purchase of bridges already constructed if they are upon the highway which is being built.

I understand that the highway in question is being constructed under and by virtue of the authority and provisions of Chapter 38 and, therefore, the Board of County Commissioners would be authorized to make the purchase of the bridge mentioned by you by complying with all the requirements of this act.