

County Bridge—Payment by Street Railway of Percentage of Cost of Construction Into What Fund.

The payment made by a street railway company for a percentage of the cost of a county bridge should be credited to the County Bridge Fund rather than the Sinking Fund.

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My dear Mr. Bennett:

You have requested my opinion as to whether the payment by a street railway company of its percentage of the cost of construction of a county bridge should be credited to the County Bridge Fund, or to the Sinking Fund, for the payment of the bonds issued for the cost of building the said bridge.

The authority for collecting a part of the cost of construction of such a bridge from a street railway company, desiring to use the same, is found in Chapter 63 of the Fifteenth Session Laws. The Act, in Section 2 thereof, provides that any street or suburban railway, desiring to use such bridge, shall pay into the County Treasury, for the use of the County Bridge Fund, such sum as the Board of County

Commissioners shall determine, but not less than one-fourth nor more than one-half of the cost of construction of such bridge. You will note that it is the "County Bridge Fund" that is designated to receive this money.

It seems to me that it is quite probable that the Legislature had a definite reason for naming the "County Bridge Fund" as the recipient of this money, rather than the Sinking Fund for the retirement of the bonds for the particular bridge, in that the former is a permanent fund, while the latter is of a more or less temporary character. The contingency might arise that, at some time after the bonds had been paid off and the Sinking Fund extinguished, a street or suburban railway might desire to utilize such a bridge. In such a case, there would be no Sinking Fund to which to credit the payment, but the County Bridge Fund would be in existence.

It is, therefore, my opinion that under the statute above referred to, the payment made by a street railway company for the use of a bridge should be credited to the County Bridge Fund.

I desire to suggest, however, that this opinion is not directed to the use of the Bridge Fund after the amount, due from a street railway company, is paid into the same, but to the requirement that the money must be paid into the said fund in the first instance, and I will draw your attention to previous opinions of the Attorney General, Volume 7, page 183, and Volume 5, pages 452-453, relating to the use of moneys in various funds, and the Bridge Fund in particular.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.