

Opinion No. 13-1085

July 30, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Honorable James A. French, State Engineer, Santa Fe, N. M.

BRIDGES.

Surplus remaining in a so-called "bridge repair fund" may be applied to building a new bridge.

OPINION

{*256} I have before me, by reference from your office, a letter from Mr. T. A. Pierce, Secretary of the San Juan County Road Board, in which he states that the bridge repair fund, about which he recently made inquiry, was created by a levy of two and one-half mills for "Bridge Repair", made by the County Commissioners on August 24, 1912, and that an unused balance of that fund the people wish applied to building a bridge at Cedar Hill.

I am unable to find any statutory authority for making such a levy. The County Commissioners did levy the full amount of three mills for the road fund, which is the limit authorized by statute, but I have not found any authority for a "bridge repair fund." The money, however, appears to have been collected and is in the county treasury. I can see no serious objection to its being used for any public purpose connected with bridges. It would be impracticable to attempt to return the money to the tax payers and if used for a legitimate public purpose, of benefit to the county, that would be really better than to return the money to the individual tax payers, if it were possible to do so. I believe there is no authority of law, however, for {*257} the County Commissioners to return the money to the tax payers. We must assume that they have willingly paid the tax for public use, and it would be difficult to imagine any objection to the use of the money in the construction of a bridge.

I return Mr. Pierce's letter herewith.