

Opinion No. 13-994

February 24, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Juan J. Clancy, House of Representatives, Santa Fe, N. M.

BRIDGES.

As to constitutionality of bill appropriating money for construction of a bridge across Pecos River.

OPINION

{*159} I regret not having been able sooner to answer your letter of the 20th inst. relative to the constitutionality of the proposed law embodied in House Bill No. 126 introduced by you appropriating \$ 6,000.00 to aid in the construction of a wagon bridge across the Pecos River at the town of Puerto de Luna, but I felt compelled to take some little time to examine the matter, as you enclosed with your letter a very positive opinion from the Chairman of the Finance Committee of the Senate that the proposed legislation contravenes the Constitution of the State.

I am not informed as to the particular part of the Constitution which, it is claimed, would make such legislation invalid, and I have been unable to find any. The only distinct prohibition as to appropriations is the one contained in Section 31 of Article IV of the Constitution, but that refers only to appropriations "for charitable, educational or other benevolent purposes." In the next preceding section of the same article, it is required that every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied, but your bill certainly complies with that requirement.

The only other place in the Constitution, as far as I can see, upon which reliance could be had to sustain the opinion as to your bill being in conflict therewith, is in Section 24 of Article IV. By that section the legislature is forbidden to pass local or special laws regulating county affairs, but I am unable to see that the appropriation of money to assist in the building of a bridge is a regulation of county affairs. It is true that the bridge will be county property when completed, but for the legislature to assist in its construction cannot be considered as regulating county affairs.

In the same section of the Constitution, it is provided that the legislature shall not pass local or special laws "laying out, opening, altering or working roads or highways," but, although a bridge is part of a highway, yet the contribution of money to the construction of a bridge, which can only be established by the county authorities, does not seem to fall within this prohibition. Your bill is not a special one in the proper sense of the term for working a road or highway, {*160} but it merely provides money for the construction

of part of a highway under the supervision of the State Engineer, who is already, by Section 10 of Chapter 42 of the Laws of 1909, given supervision of all county bridges built by contract where the amount exceeds the sum of \$ 1,000.00. It does not appear to me that your bill provides for laying out, opening, altering or working any road or highway.