

Opinion No. 14-1229

May 13, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable C. W. G. Ward, Las Vegas, New Mexico.

BRIDGES.

Bridges constructed by authority of Chapter 32 of the Laws of 1913 are county bridges.

OPINION

{*92} I have today received your letter of the 11th inst. from which it appears by your postscript that as to the particular bridges in Mora County, about which you write, you and the State Engineer have reached a satisfactory conclusion, if the county commissioners accept your advice on the subject, and it appears to me, as it does to you, that it would be a perfectly fair and safe arrangement.

I think, however, if any similar question hereafter arises that any bridge constructed under the provisions of Chapter 32 of the Laws of 1913 must be a county bridge, as you say, but I do not think that that fact should be allowed to interfere with securing the cooperation and assistance of the State Highway Commission and the State Engineer.

The fact that state money might even be expended on such a bridge should not be allowed to affect the ownership of the bridge or make it therefore a state bridge. By Section 6 of Chapter 42 of the Laws of 1909, which was the act establishing the Territorial Road Commission, it is made the duty of that commission to co-operate with the various boards of county commissioners in the construction of such roads and highways as the commission may determine should be constructed or repaired, and by Section 3 of the same act the commission is given general charge and supervision of all highways and bridges constructed or maintained, in whole or in part, by the aid of territorial moneys. I assume that you must have had these provisions in mind when you were considering whether the bridges should be county or state bridges. By Section 2 of Chapter 54 of the {*93} Laws of 1912, the commission is given charge of all matters pertaining to the expenditure of the state road fund on public roads and bridges in the state and by Section 3 it is made its duty when requested to advise towns, villages and counties with regard to the construction and maintenance of any road or bridge. Taking these various provisions together, I believe it is clear that the State Highway Commission may expend the state road fund upon roads and bridges which must be classed as county roads and bridges if it is necessary to make any distinction between them and state roads and bridges. However this may be, Chapter 32 of the Laws of 1913 clearly provides for county bridges to be constructed under the direction of the counties and to be paid for by the counties and any assistance from the State Highway Commission cannot be allowed to change the character of that class of bridges.