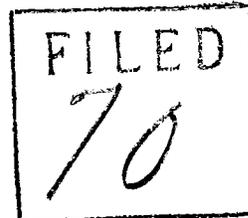


OFFICERS:
COUNTY TREASURERS:

RE: Treasurer cannot receive extra compensation
for taking care of accounts of county toll bridges.

January 8, 1946



Mr. Hugh Phillips, Prosecuting Attorney
Camden County
Camdenton, Missouri

Dear Sir:

This will acknowledge receipt of your letter of recent date requesting an opinion of this department relative to the payment of compensation to the treasurer of Camden County for handling the records and accounts and, in general, taking care of the Hurricane Deck Bridge Funds. The questions presented by your letter are:

"May the County Court lawfully pay the County Treasurer out of the funds received from the tolls on the bridge reasonable compensation for her services rendered in this special trust capacity?

"May the County Court also now pay the County Treasurer a reasonable compensation for her services rendered in the past out of the tolls received from the bridge?

"Could the County Court lawfully designate and appoint the County Treasurer or some other person as secretary-treasurer for the Toll Bridge Fund and as such pay a reasonable compensation therefore out of the revenue received from the bridge?"

Under date of November 19, 1941, this office wrote an opinion to Honorable Marion Robertson, Prosecuting Attorney of Saline County, Missouri. Mr. Robertson desired to know whether the county treasurer of Saline County was entitled to a salary, in addition to his statutory allowance as treasurer, for taking care of the accounts of the Saline County-Miami Bridge Fund. This department held that the county treasurer of Saline County could not receive additional compensation for performing these duties.

We are of the opinion that the same legal issue presented in our

former opinion is raised by your letter. We think that our former opinion, therefore, answers questions 1, 2, and part of question 3 of your letter, so far as the county treasurer is involved. We enclose a copy of this opinion for your examination.

There remains the question of whether the county court could lawfully designate a person other than the county treasurer to manage the accounts of the toll bridge fund and pay such person a reasonable compensation therefor.

Section 8548, R. S. Mo. 1939, which prescribes the methods of financing, acquiring and constructing toll bridges, and under which the Hurricane Deck Bridge was constructed, is set out in full on page 3 of the accompanying opinion of this department. It provides no express statutory authority for the appointment of some particular person to act as secretary-treasurer of any toll bridge fund. Further, its provisions, we think, plainly indicate that the public agency (in this case the county) is to have charge of all affairs regarding the bridge from the acquisition of funds for the purpose of constructing or acquiring such bridge down to the operation and maintenance of the bridge. Since the county is to take complete charge of the bridge and the funds therefrom, and the statute makes no provision for the appointment of other persons to aid the county officers in performing any of the duties which may become necessary, we think it becomes the exclusive duty of the county officers to perform the functions necessary to the operation and maintenance of the bridge which are consistent with the general nature of their official duties. In *Louisville Bridge Commission vs. Louisville Trust Company*, 81 S. W. (2d) 894, the Supreme Court of Kentucky held that the funds collected from a toll bridge were public funds. It is the duty of the county treasurer to manage and have the custody of the public funds which are under the control and management of the county. Our own Courts, in ruling on questions arising under sections 8547 and 8548, R. S. Mo. 1939, have considered toll bridges constructed under authority of those sections as bridges owned by the counties. In *State ex rel St. Charles County v. Smith* (1941) 348 Mo. 7, 15; 152 S. W. (2d) 1, the Missouri Supreme Court pointed this out by saying:

"The county acquired, and has ever since owned and operated the toll bridges in question under the provisions what are now Secs. 8547, 8551, R. S. Mo. 1939 (Sess. 7907-c--7907-g, Mo. Stat. Ann.) enacted at the extra session of 1933-34 (Laws 1933-34, Ex. Sess., p. 115)."

Also, *Lancaster v. County of Atchison* (1944) 352 Mo. 1039.

We think, therefore, that the custody and management of the Hurricane Deck Toll Bridge Fund is a duty incidental to the office of the county treasurer of Camden County.

CONCLUSION.

We are, therefore, of the opinion that the county court of Camden County may not lawfully pay the county treasurer, out of the funds received from the tolls on the Hurricane Deck Bridge, a reasonable compensation for her services rendered in regard to the Hurricane Deck Bridge Fund, and that compensation may not be granted for such services which have been rendered by her in the past.

We are of the further opinion that the County Court of Camden County may not lawfully designate and appoint the county treasurer or some other person as secretary-treasurer for the toll bridge fund and, as such, pay a reasonable compensation therefor out of the revenue received from the Hurricane Deck Bridge.

Respectfully submitted,

SMITH N. CROWE, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

SNC:dc
(Enc.)