

May 4, 1971

Answer by Letter - Klaffenbach

OPINION LETTER NO. 274

Honorable Arlie H. Meyer  
Missouri House of Representatives  
234 Thomas  
St. Charles, Missouri



Dear Representative Meyer:

This letter is in answer to your request for an opinion in which you ask:

"If money is loaned from the General Fund to the Road and Bridge Fund, do the statutes prohibit paying back this loan plus a reasonable amount of interest to the General Fund."

While we do not pass upon the legality of such a "loan," we enclose for your information Opinion Letter No. 423, dated October 19, 1970 to the Honorable Hugh A. Sprague, which holds that a county court under certain circumstances does have the authority to rectify an erroneous transfer by transferring funds from the road and bridge fund to the general fund for expenditure during the current budget year.

With respect to the power of a county court, the Supreme Court of Missouri held in King v. Maries County, 249 SW 418, 420:

"It has been held uniformly that county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute.\*\*\*This is qualified by the rule that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted."

Honorable Arlie H. Meyer

We find no authority for the payment of interest from the road and bridge fund in this situation and, therefore, are of the view that, since such funds can be used only for certain purposes, (Missouri Constitution Article X, Section 12(a) and Sections 137.554 RSMo 1969 et seq.,) the payment of interest in such a case is prohibited.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Enclosure:

Opinion Letter No. 423, 10/19/70, Sprague