

MAINE STATE LEGISLATURE

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February 12, 1926

To Ernest L. McLean, Member, Kennebec Bridge Directors
Re: ~~Carlton~~ Bridge

I have had several requests for an opinion as to whether interest should be charged to the construction account or should be disregarded as an item of construction cost, to all of which I have given as my opinion that the matter of interest under the provisions of the act authorizing the construction of the bridge, taken together with the Resolve passed by the legislature, could not properly be charged to the construction account.

My reason for such an opinion is based on the fact that in Section 6 of Chapter 89 of the Private and Special Laws of 1925 it is provided:

"All moneys collected as tolls shall be regularly deposited by the directors in some bank or trust company designated therefor by the governor and council, and on the first secular day of each month the balance so on deposit shall be transmitted by them to the state treasurer. All rentals shall be paid direct to the state treasurer. From the funds so received the state treasurer on warrants signed by said directors and approved by the governor and council and by the state auditor shall pay all bills for the maintenance, upkeep, repairs and operation of said bridge and shall also pay the interest on the bonds as they come due, any balance shall be held by him as a separate fund for the retirement and payment of the bonds hereinafter provided for."

Section 17 of Chapter 71 of the Resolves of 1925 provides:

"The legislature may authorize, in addition to the bonds hereinbefore mentioned, the issuance of bonds not exceeding three million dollars in amount at any one time, payable within fifty-one years, at a rate of interest not exceeding four per centum per annum, payable semi-annually, which bonds or their proceeds shall be devoted solely to the building of a highway, or combination highway and railroad bridge across the Kennebec river between the city of Bath and the town of Woolwich."

It will be noted that Section 6 provides that the interest on the bonds as they come due shall be paid from tolls and rentals and that Section 17 of Chapter 71 provides that the proceeds of the bonds shall be devoted solely to the building of the bridge.

There does not appear to be any provision in the law providing any particular fund from which to pay the interest on the bonds during the interim between the issuance of the bonds and time when the tolls and rentals begin, which was evidently an oversight on the part of the legislature when they passed the act and the resolve.

It is possible that the court might construe the act so that the interest could be charged to the construction account, because the court oftentimes takes upon itself to make statute law, but I have to take it as I find it, and do not see any way how, under a fair construction of the act and the resolve, it can be said that it was the intention of the legislature or the people when they voted the bond issue that the interest should become a part of the construction cost.

Sanford L. Fogg
Deputy Attorney General