



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable C. C. Benton
County Auditor,
Montague County
Montague, Texas.

Dear Sir:

Opinion No. 0-5775
Re: Authority of Montague
County to accept a deed
from Bridge Corporation
to that part of a bridge
between Oklahoma and Texas
which lies within the
county and a related
question.

We have your letter of recent date reading
as follows:

"The Southern Toll Bridge Corporation owns
and is operating a Toll Bridge across Red River
North of Hocoma. The bridge is not paying expenses
and the Corporation has offered to deed to Montague
County all of said bridge which lies in Montague
County and the same offer is being made to
Jefferson County, Oklahoma as to all of said
bridge lying in that County.

"Would the Commissioners Court of Montague
County have the authority to accept such deed from
the said Corporation?"

"In the event, Montague County would have
authority to accept said deed and in the event
Jefferson County, Oklahoma accepts a similar deed
to the portion in that County, would the two
Counties own all of the bridge, or is any part of
said bridge over any portion of the river claimed
to be owned by the Federal Government?"

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If the bridge in question is not on a State highway, your question is answered in the affirmative. Red River is a navigable stream and before a new bridge could be constructed across such waterway, the consent of Congress would have to be obtained, and the plans therefor would have to be submitted to, and approved by the Chief of Engineers and by the Secretary of War. 30 Stat. 1151, 33 U.S.C.A. Sec. 401; 34 Stat. 84, 33 U.S.C.A. Secs. 491 et seq. We assume that these formalities were complied with by the Southern Toll Bridge Corporation prior to the construction of the bridge.

The Texas Legislature has vested plenary power and authority in the Texas Highway Department to designate, control and maintain State highways. Articles 6673 et seq. Vernon's Annotated Civil Statutes. As used in the statutory authorization the term "highways" includes "bridges." *Aransas County vs. Coleman*, 108 Texas 216. If the bridge is on a State highway, it should be conveyed to the State Highway Department.

No part of the bridge would be owned by the Federal Government.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JAN 10, 1944
[Signature]
 By

[Signature]
 C. F. Gibson
 Assistant

CFC:ned

OK
 J.D.

