

6FED.CAS.—5

Case No. 2,987.

COLER v. WYANDOT COUNTY.

{3 Dill. 391, note.}¹

Circuit Court, D. Kansas.

June Term, 1874.

BRIDGE BONDS—LOCAL STATUTE—ELECTION.

Action on bridge bonds executed by the county, reciting that they were issued under the internal improvement act of 1866, as amended in 1871. Special plea that the bridge for which the bonds were issued cost more than \$1,000, and that the question of incurring the debt was not submitted to the voters at a general election, of which the plaintiff had notice. This plea was based upon section 13 of the act of 1867, in respect of bridges. It was urged in support of this plea that the act last mentioned was an implied repeal of the internal improvement act of 1866, as to bridges. But the court (Miller, Circuit Justice, and Dillon, Circuit Judge), decided otherwise, holding that the bridge act of 1867 contemplated the case where bridges were to be paid for out of the county treasury, from the ordinary revenue, and that the internal improvement act of 1866, as amended in 1867 and 1871, contemplated the case of bridges to be paid for by the issue and sale of bonds, and that the vote under the last named act need not necessarily be at a general election, as the act provides that it may be at such time and place as the county commissioners may order.

Grant & Smith, for plaintiff.

Wheat & Cook, for county.

(NOTE. This case is reported in 3 Dill. 391, as a note to Thayer v. Montgomery Co., Case No. 13,870.)

¹ [Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.]