

County Funds—Deposit in Defunct Bank—Priority of Claim.

County funds on deposit in a defunct bank do not constitute a prior claim or lien against the assets of the bank under the decision of *Yellowstone County v. First Trust & Savings Bank*, 46 Mont. 439.

W. J. Shannon, Esq.,
County Attorney,
Cut Bank, Montana.

My dear Mr. Shannon:

I am in receipt of your letter in which you ask whether counties, having money on deposit in a bank, are, under the case of the *Aetna Accident & Liability Co. v. Miller*, 54 Mont. 377, entitled to a preference over other creditors of an insolvent bank.

It is my view of the law that, as to counties, the rule announced in *Yellowstone County v. First Trust & Savings Bank*, 46 Mont. 439, applies, namely, that money deposited by a county in a bank, for which securities have been given, constitutes a general deposit and places the county on the same footing with other general creditors in the distribution of the assets of the bank, with the additional right, however, of resorting to the securities.

It was apparently the intention of the Legislature to work no hardship upon the counties, as provision was made for protection by what is presumed to be sufficient depository bond.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.