

**Deposits, Bonds as Security for County.**

Bonds given as security for deposits of county funds should run to the State of Montana.

Where special deposits are made, no bond at all is necessary as an indemnity.

Helena, Montana. March 6, 1907

Hon. John L. Slattery,  
County Attorney,  
Glasgow, Montana.

Dear Sir.—

I am in receipt of your favor of the 25th ult., in which you submit for the consideration of this office the following questions:

1. If the county treasurer deposits county moneys under Sec. 4367 Political Code, as amended by Chap. V. Laws of 1903, and takes a bond therefor, to whom should such bond run?

2. Is a bond required where a county treasurer makes a "special deposit?"

Section 4367 of Political Code, as amended by Chap. V. Laws 1903, provides, in substance, that in the event the treasurer makes a deposit with any bank "he shall require from such bank or banks a good and sufficient bond \* \* \* which must be approved by the Board of County Commissioners, etc."

This law does not name a party to whom the bond should be made payable. However, Section 1084 of the Political Code, as amended by Laws 1899, page 82, provides that the provisions of the Article of which it is a part shall apply to all bonds, etc. which are required to be "approved by any court, judge, board, person or body".

Section 1061 of the Political Code is a part of the same article as Section 1084 and provides that "all official bonds must be in form joint and several and made payable to the State of Montana"; and Section 1064 of the same Article gives any person injured or aggrieved a right of action on such bond. From these statutes it appears plain that the bond required to be taken by the county treasurer under the provisions of said Section 4367, Political Code, as amended, must "run to the State of Montana."

2. "Special Deposits" are excepted from the provisions of the said Section 4367. Political Code, as amended by Chap. V. Laws 1903. The

said "special deposits," you will understand, is a deposit for safe-keeping as defined by section 2444 of the Civil Code, and one in which the depositary is bound to return the identical thing deposited. For such deposits no bond is required, but it is, of course, within the power of the treasurer to require security for his own protection.

Respectfully yours,

ALBERT J. GALEN.

Attorney General.