

**Public Moneys, Deposit of. Deposit, of Public Moneys.  
Current Business, What Is.**

It was the intention of the legislature to cause all public moneys deposited so that the same could bear interest, excepting such as might be necessary for immediate working purposes, and that no more public money should be kept on hand than enough to meet current expenses for a longer period than three months. All other moneys belonging to the county shall be deposited as provided in the law.

June 17th, 1913.

Hon. Victor R. Griggs,  
County Attorney,  
Havre, Montana.

Dear Sir:

Under date the 14th instant you wrote to this office requesting an opinion as to the proper construction to be placed upon the phrase

"current business," as used in Sec. 1 of Chap. 88 of the Thirteenth Session Laws. I note that you have advised the county treasurer of your county that the proper meaning to be attached to these words is to the effect that the business referred to means the business done by the county during each quarter. In this, I think, your conclusion is entirely correct. To elucidate, the law reads:

"It shall be the duty of the county treasurer to deposit all public moneys in his possession and under his control, except such as may be required for current business in any solvent bank," etc.

In the same section it is made the duty of any bank or banks receiving such deposits to make a statement quarter-annually of account, under oath, showing all such moneys that have been deposited with such bank during the quarter, the amount of daily balances in dollars, and the amount of interest by such bank or banks credited or paid therefor. It is also provided that:

"All such deposits shall be subject to withdrawal by the treasurer in such amounts as may be necessary from time to time."

The word "business," as used in the section is qualified by the adjective "current," and this adjective undoubtedly is used in a restricted sense, and has reference to the time immediately passing, and when the entire section is read, the period covered by the phrase "current business" undoubtedly means the business done quarter-annually. Shedding additional light upon the subject under discussion, it may not be out of place to quote here some analogous definitions from the second volume of Words and Phrases, at page 1792:

"The phrase 'current expense' is identical in signification with the phrase 'running expense.' (State v. Board of Education of Neptune City, 53 Atl. 236.)

"The words 'current expense' as used in a resolution for a school tax denoted one of the purposes for which a tax may be ordered, and are sufficiently defined, and are identical with 'running expense'." (Idem.)

"'Current expense,' as used in regard to common schools, means continuing regular expenditures for the maintenance of the schools." (Sheldon v. Purdy, 49 Pac. 228; 17 Wash. 135.)

It should be borne in mind, however, that the phrase "current expenses" does not necessarily mean all obligations of the county. In the sense in which it is used in the section, the phrase has reference to the usual, ordinary and customary running expenses, and has no reference to extraordinary or exceptional expenses, such, for instance, as the building of bridges, construction of highways, and the making of permanent improvements. (State v. Marion County Commissioners, 21 Kan. 419; 2 Words and Phrases, 1792.) The force of this conclusion becomes manifest when it is observed that under the law the bank is required to keep daily balances, and that the funds upon deposit are subject to withdrawal at any time. Thus, it follows that the bank receiving such deposits is chargeable with notice that

at any time the funds in its possession are subject to withdrawal for the purpose of meeting extraordinary expenditures.

Upon full consideration, I am forced to the conclusion that it was the manifest intent of the legislature to cause all public moneys to be deposited so that the same might earn interest at the specified rate, save only so much thereof as might actually be necessary for immediate working purposes, and to pay present existing obligations of the usual, customary and ordinary nature, and in no event should more of the public money be kept on hand for such purposes than enough to meet current expenses as herein defined, for a longer period than three months, and with respect to all other moneys belonging to the county, it is the mandate of law that they shall be deposited in the manner as provided for to the end that interest may be earned thereon.

Yours very truly,

D. M. KELLY,  
Attorney General.