

County Treasurer—Deposit of Public Fund—Current Business.

All public moneys in possession of the County Treasurer should be deposited in bank except such as may be required for the ordinary transaction of the business of his office, and all sums so deposited shall bear interest at two and one-half per cent ($2\frac{1}{2}\%$).

Jan. 25th, 1918.

Hon. H. S. Magraw,
State Bank Examiner,
Helena, Montana.

Dear Sir:

You have requested my opinion upon the interpretation of the words "current business" as found in Sec. 3003 of the Revised Codes, as amended by Chap. 88 of the 1913 Session Laws.

This section of the Revised Codes before the amendment in 1913 provided that the County Treasurer must keep all public moneys in his possession until disbursed according to law, and that in case he deposited the same or any part thereof in banks he should require from each bank a good and sufficient bond to be approved by the County Commissioners and filed with the County Clerk. The first paragraph of this section as amended by Chapter 88 of the 1913 Session Laws is as follows:

"It shall be the *duty* of the county treasurer to deposit *all* public moneys in his possession and under his control, *excepting* such as may be required for *current business*, in any solvent bank or banks located in his county subject to National Supervision or State examination, as the Board of County Commissioners shall designate and no other, and the *sums so deposited shall bear interest* at the rate of two and one-half ($2\frac{1}{2}$) per centum per annum payable quarterly-annually. The Treasurer shall take from such banks such security in public bonds or other securities, or indemnity bonds, as the Board of County Commissioners of such County may prescribe, approve and deem fully sufficient and necessary to insure the safety and prompt payment of *such deposits* on demand."

The word "current" is defined in Webster's new International Dictionary as follows: "Now, passing, as time, or belonging to the present time; as, the current month; the current number of a periodical." And, in *First National Bank vs. Graham*, (Tex.) 22 S. W. at 1102, it is said that "current" means "running; now passing or present in its progress."

In *Babcock vs. Goodrich*, 47 Cal. 488, 510, it was said that the expression in a certain statute "current expense of the year" is equivalent to "the expense of the current year." But it will be noticed that the phrase under consideration is not "current expenses" of "business for the current year," but simply that the County Treasurer must deposit *all* public moneys, "excepting such as may be required for current business."

In *State vs. Bartley*, 39 Neb., 353, 58 N. W. 172, 23 L. R. A. 67, the court in construing a statute requiring the State Treasurer to deposit in certain banks all money in his hands belonging to the "several current funds" in the State Treasury used the following language on page 358:

"All will agree, we think, that the phrase "current funds" was not employed by the legislature in enacting the statute under consideration in the same sense in which that term is used in commercial dealings. The term "current funds," like many other words in our language, is susceptible of more than one meaning. Where a word is employed in a contract or statute which has different meanings, the sense in which it is used is to be gathered from the context. It is an elementary rule of construction that effect must be given, if possible, to every word, clause, and sentence of a statute. In other words, a statute must receive such construction as will make all its parts harmonize with each other and render them consistent with its general scope and object. (*Follmer v. Nucko's Co.*, 6 Neb., 204; *State v. Babcock*, 21 Neb. 599.) If we apply the foregoing rule in the interpretation of the law under consideration, it is not a difficult task to ascertain the legislature's intent."

And in *State ex rel. A. C. M. Co.*, against District Court, 26 Mont. at 466, we find the following:

"The elementary rule of construction that every word of a statute must be given a meaning, if it is possible to do so. Another rule equally applicable in this connection is that the terms employed in a statute are presumed to be used in their ordinary sense, unless it is apparent from the context or from the subject-matter that they are used in a different or special sense."

See also 36 Cyc. 1114 and 1128 and *State vs. Clemens*, 40 Mont. 567.

It will be noticed that under the statute before the amendment it was not mandatory upon the County Treasurer to deposit in banks the public funds in his possession, but only in case he did make deposits he must require each bank to furnish a good and sufficient bond to be approved by the Board of County Commissioners but the amendment requires the County Treasurer to deposit *all* county moneys, except such as may be required for current business and "the sums so deposited shall bear interest at 2½%." It appears to me that it is the plain intent and meaning of this statute that the public moneys in possession of the County Treasurer should be deposited and that *all* moneys so deposited should bear interest; except that, the County Treasurer should keep on hand in his office sufficient in cash for the ordinary transaction of business, such as making change and cashing warrants, and the amount of such cash will depend upon the volume of business and the particular time of the year or month.

Respectfully,

S. C. FORD,

Attorney General