

**Banks—Bonds Covering County Deposits in Banks—
County Commissioners—County Funds.**

It is the duty of the Board of County Commissioners to require a bond in an equal amount to the money deposited by the County in such bank and conditions might arise where the Board should require a bond to a greater amount than the sum on deposit.

March 2nd, 1918.

Hon. H. S. Magraw,
State Examiner,
State Capitol.

Dear Sir:

I am in receipt of your letter of recent date which is as follows:

“Under Chapter 88, Section 3003, Session Laws of the Thirteenth Legislative Assembly: Is it not mandatory for the Board of County Commissioners to approve only such bond or bonds, as will cover the amount of deposits?

“Does not the Law contemp'ate that where the language reads in part of said Section 3003, as follows: ‘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 all such deposits on demand,*' that a bank having \$50,000.00 of county deposits would not have to furnish an indemnity bond of more than \$30,000.00, even though the Board of County Commissioners would approve such bond sufficient to cover the deposit of \$50,000 when the Law reads: 'Sufficient and necessary to insure the safety and prompt payment of all such deposits on demand?'

Section 3003, before said amendment required a "good and sufficient bond in double the amount deposited * * * which must be approved by the board of county commissioners * * *."

Apparently the legislature deemed it unnecessary that a bank should be required to furnish bond in double the amount deposited and amended said section so that the Board of County Commissioners might exercise a discretion in fixing the amount of the bond required and which the board would "deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits on demand."

We believe it to be the duty of the board to require a bond in an amount equal to the money deposited by the County in such bank, and conditions might exist where the board, in the exercise of sound discretion in order to insure the safety and prompt payment of all deposits on demand, should require a bond to a greater amount than the sum on deposit.

Ordinarily the acts of the Board of County Commissioners in the exercise of its discretion is conclusive and will not be controlled or reviewed, unless there is a clear abuse of such discretion, or unless there is evidence of collusion or fraud.

Respectfully,

S. C. FORD,
Attorney General.