

**Bonds—County Treasurer—Irrigation Districts—Funds
—Interest.**

Where an irrigation district has sold bonds and the money derived therefrom placed by the County Treasurer on deposit bearing interest, such interest should be placed to the credit of the irrigation district funds.

J. D. Taylor, Esq.,
County Attorney,
Hamilton, Montana.

My dear Mr. Taylor:

Your letter was received in which you state that the Bitter Root Irrigation District issued and sold bonds, the funds of which were received by the County Treasurer of Ravalli county, who placed the same on deposit among the various banks of the county, receiving two and one-half per cent per annum interest thereon. You inquire whether this interest money should be credited to the irrigation district or be retained by the county.

Section 7215 of the Revised Codes of Montana of 1921 was amended by Section 10 of Chapter 157 of the Session Laws of the Eighteenth Legislative Assembly. This section, as amended, relates to the delivery of bonds of irrigation districts and the disposition of the proceeds of sale thereof, and provides, among other things, that, after the proceeds have been received by the County Treasurer, he must place the same to the credit of the district, and pay out the same upon the order of the District Board; that, in case any portion of the funds realized by the sale of said bonds is not needed immediately for the purpose for which they were issued, the District Board may direct the investment of such funds, or any portion thereof, in certain interest-bearing securities and certificates. It is then further provided:

"The County Treasurer shall transfer to the credit of the district, and place to the credit of such fund or funds as the Board of Commissioners may direct, all interest received upon money or securities of the district intrusted to his care."

Under that part of the amendment above quoted, the County Treasurer must transfer to the credit of the district "all" interest received upon "money" or "securities" of the district "intrusted to his care" as a result of the bond sale. When he first received the proceeds of the bond sale, he received "money" belonging to the district, and it then became "intrusted to his care," and "all" interest received upon that money must be credited to the district. Nothing further need be done with the money by the District Commissioners to entitle the district to the interest received upon it by the County Treasurer. It became entitled to the interest when the bond proceeds were intrusted to the care of the County Treasurer and the interest was received.

Investment by the County Treasurer, at the direction of the District Commissioners, in the securities and certificates mentioned in the statute was not a condition precedent to the right to the interest on the money. Such investment would have left the County Treasurer bereft of the money and there would have been intrusted to his care, as a result thereof, interest-bearing securities and certificates. The interest received upon these would likewise have been credited to the district.

You mention that some contention is made that the above quoted part of the amendment refers only to interest received upon investments of the proceeds of the bond sale, but, as above pointed out, investment is not a prerequisite to the right of the district to the interest on the money, the right of the district thereto becoming fixed when interest is received upon the proceeds of the bond sale which have been intrusted to the Treasurer's care. As an investment of the money would take out of the Treasurer's hands the proceeds of the bond sale and convert them into interest-bearing securities and certificates, such a contention would make the word "money" in the statute meaningless.

It is, therefore, my opinion that the interest above mentioned should be transferred to the irrigation district funds.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.