

**Opinion No. 297.****County Funds—Deposits, Interest on  
—Checks—Banks and Banking—  
County Treasurer—Public Money.**

HELD: 1. A county treasurer would not be liable for interest on the amount of a deposited check until the county funds, represented by the check, are collected by the bank.

2. Until a check is converted to "money" the provision of Section 4767, R. C. M. 1921, as amended, relating to the payment of interest on "public money," does not apply.

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March 24, 1936.

Hon. Frank Johnson  
Superintendent of Banks  
The Capitol

You have asked whether a county treasurer is liable for the interest on the amount of a check deposited by him in a bank between the time of deposit and the time when the check is paid and collected several days later, where the depositing bank refuses to pay interest during the interim.

The mere deposit of the check with the bank does not place funds in the bank to the amount of the check. The money is not actually received by

the bank until the check is paid by the payee and collected by the depositing bank; therefore, the depositing bank, if it chooses to do so, may rightfully refuse payment of interest on the amount of the check deposited by the county treasurer until the funds have actually been received by it. Since the county treasurer is not entitled to interest on public moneys until they are placed in the bank, in my opinion the county treasurer would not be liable for interest on the amount of the check in the interim.

Not all the facts in any particular case are stated in your request. My opinion, therefore, should be treated as general. By custom or by special agreement between the depositor and the depositing bank the amount of the check may be considered and treated as money. On the contrary, however, most banks by notation on the deposit slip, call attention to the actual fact existing regardless thereof that a check is not money, by the provision "all items are credited subject to final payment in each or solvent credits," or by similar provision. It will be noted, too, that Section 4767, R. C. M. 1921, as finally amended by Chapter 23, Laws of 1933-34, provides for the depositing by the county treasurer of "public money," for the security thereof and the payment of interest thereon. Until a check is converted to "money" the provision therein for payment of interest does not apply.