

## No. 341

**COUNTY OFFICERS, bonds of during military service—  
OFFICERS, bonds of during military service—BONDS, officers  
in military service**

**Held: Bond of county treasurer need not be continued during his absence in military service where acting county treasurer furnishes bond required of regular treasurer.**

January 9, 1942.

Mr. C. T. Sanders  
County Attorney  
Richland County  
Sidney, Montana

Dear Mr. Sanders:

Your county treasurer entered the United States armed forces on September 16, 1940. An acting treasurer was sworn into office and furnished the bond required of the regular county treasurer. You inquire whether the premium must be continued on the absent treasurer's bond without jeopardizing his status as county treasurer when he returns from his military service.

The bond is, of course, required by statute. (Section 466 of the Revised Codes of Montana, 1935.) By Section 475 of the Revised Codes of Montana, 1935, the principal and sureties are liable for defaults of any deputy, clerk or employee, appointed or employed by the principal.

An official bond is in effect a contract between the officer and the government that such officer will faithfully discharge the duties of his office.

Leslie County v. Maggard, 212 Ky. 354, 279 S. W. 335;  
State v. Gramm, 6 Wyo. 329, 52 Pac. 533.

The 1941 Legislature—by Chapter 47 of the Laws of 1941—made provision for maintaining the status of officers who enter the armed forces of the United States and provided for the appointment of acting officers during their absence. The Legislature has the power to fix the amount of the bonds required or dispense with the necessity of any bond whatsoever. No prerequisite was made in Chapter 47 that the officer's bond must have been in force during his absence in order that he regain his status upon his return from military service. The acting officer in the instant case has furnished the required bond as he should have done. It replaces the bond of the regular officer until he reassumes his duties. No reason exists why two bonds should remain in effect.

I am, therefore, of the opinion the bond of the absent county treasurer need not be continued beyond the time the acting treasurer assumed the duties of the office and furnished bond. The status of the absent officer upon his return will not be jeopardized by discontinuing his official bond.

Sincerely yours,

JOHN W. BONNER  
Attorney General