

Opinion No. 47.**Counties—County Commissioners—
War Bonds—Bonds, War.**

Held: No authority exists for the investment of "trust and agency funds" by boards of county commissioners in United States war bonds.

April 26, 1943.

Mr. W. A. Brown
State Examiner
State Capitol
Helena, Montana

Dear Mr. Brown:

You have asked this office if the various boards of county commissioners may invest monies now held in the "trust and agency funds" in United States war bonds. You have explained to me the designation of monies as "trust and agency funds" is by direction of your department; and such monies include funds deposited by direction of law with the county treasurer, but which funds are not county funds, such as state hail insurance funds, state bounty funds, state university millage funds, and many others.

Nowhere in the Revised Codes of Montana of 1935 or acts amendatory thereto, have I been able to find authority given to boards of county commissioners to make investments out of such monies. In this state it is a well established principle boards of county commissioners may exercise only such powers as are expressly conferred upon them or which are necessarily implied from those expressed; and where there is a reasonable doubt as to the existence of a particular power in the boards of county commissioners, it must be resolved against them, and the power must be denied. (Section 4441, Revised Codes of Montana, 1935; Lewis v. Petroleum County, 92 Mont. 563, 565, 17 Pac. (2nd) 60, 61, and cases cited therein.) In the case of funds such as are here involved, the doubt as to the power of the county commissioners over them is extremely great, inasmuch as many of the funds are in no sense of the term county monies, but are rather monies held in trust by the county treasurer.

While here the object sought to be accomplished—the purchase of United States war bonds—is a worthy and laud-

able project, the doctrine of expediency does not enter into construction of statutes. (Franzke v. Fergus County, 76 Mont. 150, 156, 245 Pac. 962, 965.)

It is my opinion no authority exists for the investment of "trust and agency funds" by boards of county commissioners in United States war bonds.

Sincerely yours,
R. V. BOTTOMLY
Attorney General.