

9-16-64 see letter attached

STATE TREASURER:

Right to collect interest on state deposits after closing of state depository.

January 31, 1933

FILED

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Hon. Richard R. Nacy  
State Treasurer  
Jefferson City, Missouri

Dear Mr. Nacy:

This office is in receipt of your letter dated January 30, 1933, in which you make inquiry as follows:

"I wish you would kindly give me your opinion as to where interest should be figured to on closed depositories, the time the bank is closed or up to the time that the securities are realized on".

30,240  
Section 11465 Revised Statutes Missouri 1929, provides for the depositing of state moneys in depositories approved by the Governor, Treasurer, and Attorney General, for the re-payment of which deposits satisfactory securities shall be given, such depository to pay a bonus for the use of such state deposits. The original deposits with interest and profits that accrue thereon to be disbursed by the treasurer for state purposes.

30,260  
Section 11467: The interest or bonus provided for in Section 11465 shall be paid by the state depository on the average daily balances of state money and shall be paid and credited to the state monthly, on the first day of each month.

Section 11468: Bids for state moneys shall state the interest such bidder bank will pay on average daily balances to the credit of the State Treasurer in such bank.

30,250  
270  
Section 11469: (Amended Laws 1931, page 378) For the security, safe keeping and payment of the deposits aforesaid the depository bank shall deposit its obligation in the form of a bond and in addition thereto it is required to post certain bonds of the United States, Missouri, etc., and under Section 11474 such depositories may be required to give a personal bond in addition to the foregoing for the safe keeping and prompt payment of the state moneys held in such depositories.

The form of contract submitted herewith, I take it, is the form in use and executed by the depository giving rise to the question embodied in the foregoing letter.

The contract recites the making of a bid for the safe keeping and payment of certain state funds and payment of interest thereon; that the depository agrees to pay interest on the daily balances for such deposits at a rate to be specified. In the third paragraph on the second page that if the depository shall fail to pay the check or checks of the State Treasurer, then the Treasurer is authorized to forthwith convert the securities collateralized to insure the payment of the state deposits, or to sell so much of such securities as may be necessary to pay the whole amount of the deposits made by the State Treasurer and disburse the proceeds of such securities according to law.

It was the evident intention and purpose of the foregoing sections of the statutes, as well as the intent of the submitted form of contract, that interest on the deposits when accrued and credited would become as much a part of the state's deposits as was the original deposit. The statutes and the contract constitute a continuing obligation against the securities for the payment of interest at the specified rate, until such time as the State Treasurer shall forthwith, - that is, - promptly and without delay, sell the securities collateralized which securities, it must be assumed, are in compliance with the statutes and for which there would be a ready market. For instance, if a depository closed on the 31st day of January, 1933, the bank would not have credited the thirty days' interest for the month of January, to the account of the State Treasurer because the first day of February had not arrived; nevertheless under the statutes and the contract, after the Treasurer had drawn his check on the depository and the same had not been paid, the State Treasurer would be entitled to retain from the sale of the securities the original deposits with interest thereon according to the contract, until the lapse of the time in which prompt sale of the securities should have been made. If a bank closed on the first day of the month, being the date on which the interest was required to be credited, and if such credit had not been made to the account of the state, notwithstanding the fact that such credit had not been made, the state would be entitled to retain from the sale of the securities sufficient to pay the interest on the deposits from the date

Hon, Richard R. Nacy,

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January 31, 1933

the interest was last credited thereon until the Treasurer's check had been refused and the time had elapsed in which the Treasurer should have promptly sold such securities, and that would be after February 1st.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General

APPROVED:

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Attorney General.

GL:LC