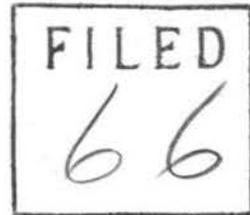


COUNTY SINKING FUND:) County sinking funds may be invested
COUNTY CAPITAL SCHOOL FUND:) in United States bonds; capital school
funds cannot.

September 10, 1943



Hon. J. F. Newton
Presiding Judge
County Court, Wright County
Mansfield, Missouri

Dear Judge Newton:

Under date of September 4, 1943, you wrote this office requesting an opinion as follows:

"We have a bonded indebtedness here in this county of Wright, and have a sinking fund to take care of same, there is about \$8,000 in this fund and it is being paid in faster than needed to retire the bonds. Would the court be allowed to purchase war bonds with this fund?"

"We have a surplus in the school fund of about \$10,000 and it is coming in faster than we can loan it since the first of the year.

"Would the court be allowed to use any of this fund to purchase war bonds?"

Your attention is directed to Sections 13776 and 13782, R. S. Mo. 1939, respectively:

"The several county courts of this state are hereby authorized and required to loan out any money in the hands of the treasurer of such county collected for the purpose of constituting a sinking fund for the payment of the principal of

any indebtedness incurred, for which bonds are outstanding, or collected to pay interest on the bonds of such county issued, and which has not been applied in the payment of such interest, in any case where such bonds are or may be in litigation, or the validity of which is at the time being contested by judicial proceedings, or bonds maturing at the highest rate of interest that can be obtained, not exceeding eight nor less than five per cent: Provided, that no loan shall, in case of loan or sinking fund, extend beyond the maturity of the indebtedness said sinking fund is provided for and intended to pay, but shall be due and payable a sufficient time before the maturity of said indebtedness to insure prompt payment thereof."

"In case the county court of any county, having such money as is referred to in the foregoing sections of this article, shall deem it best, such court, instead of loaning such money in the manner hereinbefore provided for, may invest the same either in purchasing, on the best terms obtainable, bonds of the United States or of the state of Missouri, said bonds to be held in trust for the fund or funds to which the money applied to their purchase belonged, and shall be so expressed in the public records of the county."

These two sections of the statute being in pari materia, relating to the same subject matter, should be construed together. State ex rel. Bank v. Davis, 284 S. W. 464, l. c. 470:

"Sections 1177 and 1180 should be construed together and a meaning given to

each which will not destroy the other, if this can be done. Notwithstanding what was said in *State ex rel. v. Gantt, supra*, said sections of the statute should be held in *pari materia*. The general rule is thus laid down in 36 Cyc. 1147:

"Statutes in *pari materia* are those which relate to the same person or thing, or to the same class of persons or things. In the construction of a particular statute, or in the interpretation of any of its provisions, all acts relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law. The endeavor should be made, by tracing the history of legislation on the subject, to ascertain the uniform and consistent purpose of the Legislature, or to discover how the policy of the Legislature with reference to the subject-matter has been changed or modified from time to time. With this purpose in view therefore it is proper to consider, not only acts passed at the same session of the Legislature, but also acts passed at prior and subsequent sessions, and even those which have been repealed. So far as reasonably possible the statutes, although seemingly in conflict with each other, should be harmonized, and force and effect given to each, as it will not be presumed that the Legislature, in the enactment of a subsequent statute, intended to repeal an earlier one, unless it has done so in express terms; nor will it be presumed that the Legislature intended to leave on the statute books two contradictory enactments."

"This is the rule in Missouri. *Grimes v. Reynolds*, 184 Mo. 679, loc. cit. 688, 68 S. W. 588, 83 S. W. 1132."

Looking up the history of these two sections of the statute we find that they were both enacted at the same time, and as a part of the same bill, by the General Assembly of 1875, Laws of Missouri, 1875, p. 45. The act was approved February 19, 1875. What is now Section 13776 was originally Section 1 of the act. It has been amended several times with respect to the rate of interest which should be charged and the period for which loans could be made. What is now Section 13782 was Section 7 of the original act. The title of the act was:

"An Act to authorize the several county courts of this State to loan out and invest certain moneys."

The purpose of construing and interpreting statutes is to ascertain the intention of the Legislature in passing the act. Inasmuch as the Legislature was treating with the matter of investment of county funds, it is obvious that recognition was given to the fact that it might not always be possible to keep the funds invested in real estate securities and that the optional method of investing in United States bonds or bonds of the State of Missouri was provided in order that interest might not be lost due to real estate security being unavailable.

In regard to the investing of the capital school fund of the county in United States bonds, this is strictly prohibited by Section 10, Article XI of the Constitution of Missouri, which directs what form of security must be taken for loans made from the capital school fund. Said section provides:

"All county school funds shall be loaned only upon unencumbered real estate security of double the value of the loan, with personal security in addition thereto."

Conclusion.

From the foregoing it is the conclusion of the writer that funds belonging to the sinking funds of the county may be invested by the county court, when it deems it advisable, in

Hon. J. F. Newton

-5-

Sept. 10, 1943

United States bonds and bonds of the State of Missouri until such funds are needed to meet the obligations for which the funds are collected. The capital school fund of the county cannot be invested in United States bonds.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

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