

Opinion No. 14-1174

March 18, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Hon. Howell Earnest, Traveling Auditor and Bank Examiner, Santa Fe, New Mexico.

COUNTY OFFICERS.

County treasurer should furnish one bond covering his full term.

OPINION

{*31} My delay in replying to your letter of January 30th, in regard to the giving of surety company bonds by county treasurers has been occasioned by the slight delay in receiving replies to my letters addressed to Judges Medler and Leahy in which I made inquiry as to what they had declared the law to be in regard to these bonds in their respective districts. Judge Leahy informs me that the question has never been called to his attention, and Judge Medler states that he has held that a county treasurer should furnish but one bond covering his full term, and this office concurs in that opinion, believing that the Court has correctly stated the law.

The second matter inquired about by you is as to whether the bonds furnished by a county treasurer to protect school funds should run for the full term of his office. Up to the time of the passage of Chap. 87, laws of 1913, a bond was required of county treasurers to protect school moneys coming into their hands, but by Sec. 2, of the act last referred to, such a bond was done away with, so that, for instance, on January 1, 1914, a county treasurer could not be required to furnish a bond for the protection of school moneys, based upon fifty, thirty-five or any other per cent of moneys received by him during the preceding year.

In cases where surety companies have furnished bonds for the full term of office (five years), and thereafter have furnished additional bonds on January 1, 1913, and January 1, 1914, I can see no reason why the companies should not be allowed to cancel such later bonds, provided, of course, that the bond for the full term is in due form and of a sufficient amount. Of course if the receipts of a county treasurer at any time exceeds the amount of the bond furnished by him, an additional bond could be required, this requirement applying to the bond furnished by him for the full term.