

ATTORNEY GENERAL OF ARIZONA
STATE CAPITOL
PHOENIX

January 11, 1922.

Hon. Raymond R. Earhart,
State Treasurer,
State Capitol,
Phoenix, Arizona.

Dear Sir:

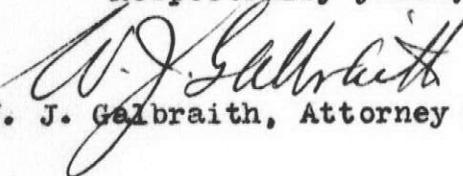
In answer to your letter of the 10th instant, regarding the deposit of public money in banks, it would appear to me that from the facts stated in your letter and also from the further facts that you stated verbally to me, to the effect that the Bankers Trust Company is the only institution that would put up United States securities to guarantee such deposit, and that by having recourse to such proceedings, the State would earn an additional interest. I can see no legal objection to this procedure, and under the situation, I do not see what else could be done.

Our laws covering the deposit of public money are susceptible of two interpretations or constructions. One is narrow, strict and mandatory, which in the instance set forth in your letter and as verbally presented, cannot be complied with, and it is impossible to do what the law would require in that interpretation.

The other interpretation is that our law is directory to the Treasurer, and when it cannot be complied with, he may, in his discretion and at his peril, do the next best thing, namely, deposit the money outside of the State with some proper institution, to be selected by him, and have the sum adequately secured.

In this particular instance there is no choice left as to which interpretation we can adopt. It would appear to be advisable to have recourse to the second interpretation, to-wit: that the law is directory only.

Respectfully yours,


W. J. Galbraith, Attorney General.

WJG:ES

January 10, 1922.

Hon. W. J. Galbraith,
Attorney General of Arizona.
State House,
PHOENIX, ARIZONA.

Sir:

Please advise me if the surplus public moneys that the banks within the State do not care to accept on deposit, or cannot or will not put up securities to cover, may be deposited with the Bankers Trust Company of New York City. The Bankers Trust Company to pay us interest on such deposit and to deposit with some other New York bank, acceptable to me. United States securities to guarantee such deposit.

Thanking you in advance for an early reply,
I am

Respectfully,

GJE/tm

STATE TREASURER