

Opinion No. 31-7

January 12, 1931

BY: E. K. Neumann, Attorney General

TO: Hon. Warren R. Graham, State Treasurer, Santa Fe, New Mexico.

{*22} The question of liability propounded by you regarding the matter of the Chase National Bank of New York City refusing to pay the 1 1/2% interest on daily deposit therein, such deposits being made for the purpose of meeting payments of principal and interest on bonds and debentures of the State of New Mexico, is indeed a perplexing one. The various laws relating to the deposit of State funds do not contemplate, as far as I can find, a deposit in any bank not doing business in this state, and Chapter 112-110 relating to the fiscal agent of New Mexico refers also to a bank doing business in this state. Consequently, I am of the opinion that you have no authority to deposit money in the Chase Bank for any purpose whatsoever.

It is true, that the deposits as made are almost necessarily made in order to meet the payments of principal and interest on bonds and debentures due and presented at said Bank as may be done at option of the holder; and you have been very diligent in procuring a depository bond to protect same and very fortunate in obtaining any interest whatsoever, but under the provisions of the Public Moneys Act, I am of the opinion that you have no authority, at this time, to even make the deposit in the New York bank.

The law should, no doubt, be amended to cover this situation and protect you in the premises.