

**OPINION**  
**56-36**

June 15, 1956           (OPINION)

COUNTIES

RE: Officials - Duty to Turn Over Moneys Collected to Treasurer

This is in reply to your letter requesting an opinion of this office on county officials turning over moneys collected to the county treasurer.

You inform us that in several counties it is customary for the sheriff, register of deeds, and other collecting county officials to maintain their own bank accounts, properly entitled with their official county designations and in which they deposit collections as received, and do not make a remittance to the county treasurer until the close of each month's business.

You enclose a copy of a letter of date June 10, 1943, from William R. Pearce, Assistant Attorney General, and ask whether same has been amended or is still in full force and effect.

Section 11-2201 of the North Dakota Revised Code of 1943 provides that:

"Any and all funds, other than fees and taxes, received by any sheriff, clerk of the district court, or public administrator by virtue of his office may be paid over and delivered to the treasurer of the county. Upon the delivery of the money to the treasurer, the officer depositing the same shall be absolved from all liability for the safekeeping of the funds."

We must agree that this statute apparently contemplates deposit of all funds eventually with the county treasurer, and it would further appear in view of the provisions of the statute as to the liability of the officers concerned that the Legislature intended the result of having such moneys turned over to the county treasurer as quickly as possible. Chapter 11-22 of the North Dakota Revised Code of 1943 is the present codification of chapter 95 of the 1933 Session Laws cited by Mr. Pearce's letter. You will note that the codifiers made several changes in the wording of the statutes in the process of codification. However, the chapter remains substantially the same.

We believe it advisable, however, to call your attention to the provisions of section 11-1514 of the North Dakota Revised Code of 1943 to the effect that at the expiration of each month the sheriff shall make a report and shall turn over fees to the county treasurer, the provisions of section 11-1705 of the North Dakota Revised Code of 1943 to the effect that the clerk of the district court within three days after the close of each calendar month shall file with the county auditor a statement showing amount of fees received and within three days thereafter he shall deposit with the county treasurer the total sum of such fees less such fees as he is authorized to retain; and the provisions of section 11-1806 of the North Dakota Revised

Code of 1943 to the effect that the register of deeds shall make a statement of fees within three days after the close of each calendar month.

In conclusion, we must agree with the general principle set out in the letter to which you refer, i.e., that it is advisable, both for the full protection of the county and the full protection of the individual officers that moneys be turned over to the county treasurer rather than deposited in banks; however, we must point out that our statutes do not furnish a means of forcing deposit with the county treasurer prior to the time of the monthly report.

LESLIE R. BURGUM

Attorney General