

Appropriation of Money—Oil Inspection Fund.

An Act appropriating money for the maintenance of certain executive and judicial departments of the State and containing the following provision: "For the administration of oil inspection laws to be paid from the Oil Inspection Fund, \$8,935.00," constitutes an appropriation of money.

There being no money in the fund known as the "Gasoline Inspection Fund," an appropriation from the same will be construed as an appropriation from the General Fund, and a transfer of the above amount from the General Fund to the Oil Inspection Fund should be made and the money disbursed as provided in Chapter 203 of the Laws of 1919.

Chas. T. Stewart, Esq.,
Secretary of State,
Helena, Montana.

My dear Mr. Stewart:

You have submitted to me House Bill No. 172, being an Act appropriating money for the maintenance of certain of the Executive Departments and the Judicial Department of the State of Montana for two years, beginning July 1, 1921, and ending June 30, 1923, and wish to be advised whether the following provision therein, to wit:

"For the Administration of Oil Inspection Laws to be paid from the Oil Inspection Fund, \$8,935.00,"

is an appropriation of money, and if so, from what fund, it appearing that there is no money in the Oil Inspection Fund.

Section 1 of this Act reads as follows:

"That the following sums or so much thereof as may be necessary be, and the same are hereby appropriated out of any money in the State Treasury not otherwise appro-

priated, and out of any special fund herein designated, for the objects and purposes hereinafter expressed, for the year beginning July 1, 1921, and ending June 30, 1922."

Section 16 of Chapter 203 of the Laws of 1919 provides:

"That for the purpose of enforcing the provisions of this Act, a fund to be known as the State Gasoline Inspection Fund is hereby created; that all of the expenses incurred by the State Oil Inspector in enforcing the terms of this Act, the salary and all of the necessary traveling expenses of the deputy oil inspector and all necessary laboratory and traveling expenses of the State Chemist shall be paid out of the fund created by this Act in the following proportions, to-wit: Two-thirds of the fund hereby created shall be expended in payment of salary, traveling and other expenses of the Oil Inspector and his deputies, including office help and equipment; one-third of said fund shall be expended in the payment of the necessary expenses incurred by the State Chemist. All bills for payment out of said fund shall be presented and audited in the same manner as other claims against the State of Montana."

"An appropriation of funds" is defined as follows:

"A setting apart from the public revenue of a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money and no more for that object, and for no other; the setting apart of a portion of the public funds for a public purpose; the setting apart of public moneys by legislative vote or enactment to be applied to specific objects of public expenditures." (4 Corpus Juris, 1460.)

It is apparent from the expression, "for the administration of the Oil Inspection Laws, \$8,935.00," that the Legislature intended to appropriate money. Had the Legislature intended to abolish this office, it is reasonable to presume that no mention would have been made of it in the appropriation bill.

By the provisions of Section 16 of Chapter 203 above referred to, there is created a fund known as the Gasoline Inspection Fund. The Legislature has not changed the law regarding this Gasoline Inspection Fund. Any moneys that are paid out on account of this Act must be paid out of this fund. However, the Legislature made no provision for the maintenance of this fund, except by appropriation from "any money in the State Treasury not otherwise appropriated." This provision was made by Section 17 of Chapter 203 above referred to.

I am, therefore, of the opinion that the Legislature has plainly manifested an intention to appropriate money for the maintenance of this office, and there being no money in the particular fund out of which the appropriation is made, that the provision must be con-

strued as an appropriation of money from the General Fund to the particular fund therein designated. There should, therefore, be transferred from the General Fund to the Oil Inspection Fund the sum of \$8,935, to be disbursed as provided in Section 17 of Chapter 203, Session Laws of 1919.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.