

Opinion No. 75.

**State Funds—Federal Funds—State
Boards — Revolving Funds, Security
for Deposits of—Banks and Banking
—State Treasurer.**

HELD: Where funds received from
the Federal Government are mingled

with state funds and are set up as a revolving fund for a state board, such state board may, if it so desires, demand security of the bank in which the deposit is made in an amount corresponding to the amount of federal money included in such deposit.

but excepts from its operation "any deposits of moneys of the United States and public funds deposited in accordance with the provisions of any depository act of this state, or the United States."

It is our conclusion, therefore, that such state board may, if it so desires, demand security of the bank in which the deposit is made in an amount corresponding to the amount of federal money included in such deposit.

April 3, 1935.

Hon. James J. Brett
State Treasurer
The Capitol

Your letter of March 23 is as follows:

"An opinion as to whether or not the following should be considered state monies in the hands of the State Treasurer would be appreciated:

"Funds are received from the Federal Government which are mingled with State funds. A warrant is drawn against the combined funds and set up as a revolving fund for a board. This is in accordance with Section 195, R. C. M. The revolving fund is deposited in a bank subject to check by the Board. Should this deposit be secured by collateral?"

Chapter 180, Laws of 1929, requires the State Treasurer to deposit public moneys in his possession and under his control in solvent banks designated by the State Depository Board and located in the State of Montana. Each of such banks must then give security equal in value to the amount of the deposit. The term "public moneys" is defined by Section 11320, Revised Codes 1921, to include "all moneys belonging to the state, or any city, county, town or district therein." (State v. McGraw, 74 Mont. 152.)

It is obvious, we think, that when the State Treasurer cashes a state warrant and the amount thereof is placed in a bank to the credit of some state board, in accordance with the provisions of Section 195, Revised Codes 1921, to be drawn against by it as the necessities of the case demand, the requirements of Chapter 180 can have no application.

Section 112 of Chapter 89, Laws of 1927, makes it unlawful for any bank "to pledge or mortgage to any depositor any of its real or personal property as security for any deposit,"