

**Insolvent Banks, Subject to Examination. State Examiner, as to Insolvent Banks. Fees, to State Examiner Fund.**

It is the duty of the state bank examiner to retain jurisdiction over state banks, even though such banks are in the hands of a receiver appointed by the court.

An impaired or insolvent bank is subject to examination by the state examiner and for the payment of the examination fee provided by law, even though a receiver has been appointed for such bank.

January 7, 1911.

Hoo. C. E. Kumpe,  
State Examiner,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 5th inst., in which you submit for my opinion the following questions:

1. "Will you please give me your opinion as to whether or not it is mandatory for the state examiner or assistants to examine insolvent banks when they are in the hands of a receiver regularly appointed by the court."

2. "And, if so, is it not necessary that the banks thus examined be required to pay the fee as prescribed by law?"

Section 209, Sub-division 4. of the Revised Codes of 1907, makes it the duty of the state bank examiner to visit and examine all banks incorporated under, or doing business under any law of this state. Section 4004, Revised Codes of 1907, as amended by Chapter 141, of the Laws of 1909, provides in substance, that when the state examiner after a full and careful examination of the affairs of any banking corporation, shall find evidence of impairment or insolvency, that it becomes his duty to report such fact to the governor and attorney general, and if it appear necessary that a receiver be appointed, the same is had upon the application of the attorney general. After the appointment of such receiver, in accordance with the provisions of Section 4, of said Chapter 141, Session Laws of 1909, it is the duty of all such receivers to make reports to the state examiner in the same manner as is required of other banks. It is further provided that any receiver who refuses to submit the affairs of such bank to an examination by the state examiner, or who violates any of the provisions of the law relating to the examination of banks, shall be subject to certain penalties. It is undoubtedly the object of this law to retain supervision by the state examiner, even though a receiver be appointed for the protection of the stockholders and depositors of such insolvent bank, and it is my opinion that it is the duty, in view of the foregoing provision of law, to continue to examine insolvent banks in the same manner as solvent banks incorporated under, or doing business under the laws of this state.

In answer to your second inquiry, in view of the foregoing conclusions, that it is your duty to examine such banks, it is apparent

that the banks thus examined be required to pay the fee as prescribed by law. Section 215, Revised Codes of 1907, provides in substance that every bank, banking corporation, etc., **subject to supervision** of the state examiner, under the laws of this state, shall pay a fee as therein enumerated. An insolvent bank in the hands of a receiver regularly appointed by the court, being a banking corporation, **subject to supervision of the state examiner**, it necessarily follows that the fees prescribed as being payable by such bank, should be made as in the case of solvent banks subject to such examination.

Yours very truly,

ALBERT J. GALEN,

Attorney General.