

State Examiner, Expenses. Private Banks, Examination.

Expenses incurred in the examination of private banks should be allowed and paid in the same manner as expenses incurred in other examination.

January 8th, 1914.

Hon. William Keating,
State Auditor,
Helena, Montana.

Dear Sir:

Replying to your request of the 7th instant for an opinion upon the following statement of facts:

"Referring to Chap. 111, Sec. 11, of the 1911 Session Laws, I find the state examiner does not turn the full amount collected in this connection to the state treasurer, for the state examiner's fund. Instead thereof the deputies that make the

examination do not charge their expenses to the state, but keep a separate account of same. The state examiner then pays them by private check, and turns the balance to the state treasurer for the bank examiner's fund.

"My idea is that they are doing state work, same as when examining a state bank, and should charge their full expenses to the state; the full amount collected should go direct to the fund. This is the simplest and easiest way to treat this matter."

I will say that after carefully considering the matter in question I am of the opinion that the conclusion reached by you is the correct one. Sec. 215, Revised Codes of 1907, makes provision for a state examiner's fund. And it is my judgment that the expenses and per diem provided for by Sec. 11 of Chap. 111, Session Laws of the Twelfth Legislative Assembly, should be paid by private banks, in the same manner as other banking institutions are required to pay the fees and charges as fixed by Sec. 215, supra. Sec. 1 of Chap. 93 of the Laws of the Twelfth Legislative Assembly provides:

"The salary of the state examiner for all services rendered in any capacity whatever shall be \$3,000 per year, and in addition thereto the state shall pay the necessary office and traveling expenses of himself and assistants."

The conclusion appears to be inevitable that claims for expenses incurred by the state examiner's office in the examination of private banks should be allowed only in such manner as claims for expenses incurred in the performance of any other duties pertaining to the office, for when the history of the legislation affecting the office of the state examiner be considered, it will be made to appear readily that the language of Sec. 11, supra, cannot be construed in any such sense as to permit the state examiner to handle the fund which private banks are required to pay, in any manner other than that required of other institutions.

Yours very truly,

D. M. KELLY,
Attorney General.