

**Bank Examiner—State Treasurer—Fees—Funds.**

Money paid to the State Treasurer under the provisions of Section 6080, Revised Codes of 1921, must be deposited to the credit of the State Banking fund and may be paid out by the State Treasurer on warrants drawn against that fund for the support and maintenance of the State Banking Department.

Chapter 88, Laws of 1923, held to be in part unconstitutional.

George P. Porter, Esq.,  
State Auditor,  
Helena, Montana.

My dear Mr. Porter:

Your letter was received enclosing copies of letters from L. Q. Skelton, Superintendent of Banks, to O. H. Junod, State Treasurer, with reference to collections for credit to appropriation account No. 582, as provided in H. B. No. 131, Session Laws 1923, and asking my opinion as to what fund the collections under Sections 6105 and 6080, Revised Codes of 1921, are to be credited.

Sections 6095 to 6107, inclusive, were originally enacted as Sections 1 to 13, inclusive, of Chapter 111, Session Laws 1911, and have no application whatever to incorporated banks, being applicable only to persons, firms and associations engaged in carrying on a private banking business, so that at the time of the passage of such act, Section 11 thereof (now Section 6105, Revised Codes, 1921), had reference only to the payment of expenses of the State Examiner and his deputies in connection with persons, firms and associations engaged in carrying on a private banking business; and it is to be noticed that such section did not specify the fund to which the moneys received from such private banks should be credited.

Sections 6014 to 6086, inclusive, Revised Codes, 1921, were originally enacted as Sections 1 to 67, inclusive, of Chapter 89, Session Laws 1915, and have no application to persons, firms or associations engaged in carrying on a private banking business, but apply only to banks incorporated under our laws, Section 6015 being Section 2 of such Act, expressly providing "that this Act shall not apply to \* \* \* any person, firm or association now doing a private banking business." Section 6080, being Section 61 of such Act, therefore, has reference only to amounts received from incorporated state banks to defray the expenses of the State Examiner in connection with the appointment of receivers for such incorporated banks under Section 6079. Here it will be noticed that this section requires such moneys to be credited to the state banking fund.

Section 6085, being Section 66 of Chapter 89, Session Laws 1915, expressly refers to Section 6105 by providing that all fees paid under the provisions of Sections 6095 to 6107, shall be credited to the state banking fund and shall be paid out by the State Treasurer upon warrants drawn against the state banking fund, for the support and maintenance of the State Banking Department, so that, at the time the 18th session convened we had provisions expressly requiring all moneys received from private banks for the payment of all expenses of the State Examiner in connection with such banks, and all moneys received from incorporated state banks in payment of expenses incurred by the State Examiner in connection with the appointment of receivers for such banks to be placed in the state banking fund, and specifying the purpose for which such moneys should be used.

By Chapter 88, Session Laws 1923, the Legislature attempted to amend both Section 6105 and Section 6080. Section 6105 relates to the expenses of the State Examiner in connection with private banks, while Section 6080 relates to the expenses of the State Examiner in connection with incorporated state banks. The title of such Act refers only to Section 6105, and is as follows: "An Act to amend Section 6105 of the Revised Codes of Montana of 1921 relating to compensation and expenses of the State Examiner," no reference whatever being made in such title to Section 6080.

Section 23 of Article V of our Constitution provides that no bill, except general appropriation bills, and bills for the codification and general revision of laws, shall be passed containing more than one subject, which shall be clearly expressed in its title, and if any subject shall be embraced in any Act which shall not be clearly expressed in the title, such Act shall be void only as to so much thereof as shall not be so expressed.

As the title to Chapter 88 fails to refer in any manner whatever to Section 6080, there can be no question that, under the constitutional provision above referred to, the portion of the chapter which attempts to amend Section 6080 is unconstitutional and has no force or effect whatever.

It follows, therefore, that all moneys paid to the State Treasurer under the provisions of Section 6080 must, under its provisions and the provisions of Section 6085, be deposited to the credit of the state banking fund and may be paid out by the State Treasurer on warrants drawn against that fund for the support and maintenance of the State Banking Department.

Upon examining the copies of letters from the Superintendent of Banks to the State Treasurer, which were attached to your letter, it is apparent that all moneys therein referred to have been received from incorporated state banks. It is impossible to tell whether the same have been received under Section 6078 or Section 6079. If received under Section 6079 they should be deposited in the state banking fund, as required by Sections 6080 and 6085.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.