

Assessments—Banks and Banking—Stockholders—Superintendent of Banks—Double Liability.

A stockholder of a bank may not offset against his statutory liability an assessment paid by order of the superintendent of banks.

J. G. Larson, Esq.,
Superintendent of Banks,
Helena, Montana.

May 28, 1927.

My dear Mr. Larson:

You have requested my opinion whether when stockholders of a bank pay an assessment ordered by the superintendent of banks to restore impaired capital, and the bank subsequently becomes insolvent, the stockholders may offset against their double liability the amount paid by way of assessment.

Under statutes very similar to ours, I find the authorities hold that this may not be done.

Smith v. Goldsmith (S. D.) 207 N. W. 977;

Citizens Bank of Lane v. Needham (Kan.) 244 Pac. 7;

Northwestern Trust Co. v. Bradbury (Minn.) 134 N. W. 513;

Blockert v. Lankford (Okla.) 176 Pac. 532;

Markus v. Austin (Tex.) 284 S. W. 326;

Delano v. Butler, 118 U. S. 634, 30 L. Ed. 260.

It is therefore my opinion that a stockholder who has paid an assessment to restore impaired capital by order of the superintendent of banks

may not offset such payment against his double liability imposed by statute.

Very truly yours,

L. A. FOOT,
Attorney General.