

Opinion No. 525**Banks and Banking—Powers of—
Pledging Assets and Security—
Public Funds—Insured De-
posits—Cities and Towns—
—Counties.**

HELD: State banks have authority to pledge assets to secure state, county and city funds except as limited by Chapter 23, Laws of the Extraordinary Session, 1933, relating to county, city and town funds guaranteed or insured according to law.

May 3, 1934.

You have submitted a letter from P. C. Kivilin, Receiver of the First National Bank of Conrad, and request that we render an opinion in regard

to the power of state banks in the State of Montana, to pledge their assets as security for the deposits of the state and its political subdivisions.

The Act of June 25, 1930, chap. 604, 46 Stat. at L. 809, U. S. C. A. title 12, §90, amends §45 of the National Bank Act of 1864 by adding thereto the following: "Any association may, upon the deposit with it of public money of a State or any political subdivision thereof, give security for the safekeeping and prompt payment of the money so deposited, of the same kind as is authorized by the law of the State in which such association is located in the case of other banking institutions in the state."

In *Marion v. Sneed*, 291 U. S. 262, 78 L. Ed. 787 the Supreme Court of the United States held that since banks organized under the laws of Illinois, do not possess the power of pledging assets to secure the deposit of public moneys of a political subdivision of the state, the national banks under the Act of June 25, 1930, do not have such power.

You are advised, however, that state banks of Montana have power to pledge the assets of the bank as security for state funds, as well as county and city funds. The authority to pledge assets to secure county and city funds is expressly given by Section 4767 R. C. M. 1921 as amended by Chapter 89, Laws of 1923, Chapter 137, Laws of 1925, Chapter 134, Laws of 1927, Chapter 49, Laws of 1929, Chapter 23, Laws of 1933-34 Extraordinary Session. The only limitation is in the last named chapter which recites: "* * * Provided, however, that said board of county commissioners, city or town council may require security for only such portion of deposits as is not guaranteed or insured according to law."

The authority to pledge assets to secure state funds is given by Section 182, R. C. M. 1921, as amended by Chapter 180, Laws of 1929. In regard to state funds it will be noted that there is no such limitation as is provided in Chapter 23, Laws of 1933-34 relating to county, city and town funds.