

**Opinion No. 234.**

**State Examiner—Appropriations—  
Revolving Fund.**

HELD: The state examiner's permanent revolving fund provided for by House Bill No. 337, Laws of 1937, p. 663, does not lapse after the first year but continues for the biennium.

January 27, 1938.

Hon. W. A. Brown  
State Examiner  
The Capitol

Dear Mr. Brown:

You have submitted the question of whether the appropriation of \$5,000, as a state examiner's permanent revolving fund, must lapse at the end of the fiscal year.

The provision in House Bill No. 337, Laws of 1937, page 663, reads:

"PERMANENT REVOLVING  
FUND FOR THE GENERAL  
FUND

"There is further appropriated from the general fund, the sum of five thousand dollars, (\$5,000.00) for the purpose of creating a permanent revolving fund to be known as the state examiner's permanent revolving fund. The salaries and expenses of all examinations of the Montana liquor control board, Montana relief commission etc., (here follows a list of state boards, commissions, departments and agencies) and any other department, board or commission not operating on a general fund appropriation, and all such examination shall be paid from this revolving fund, and such board, commission, department or agency, shall reimburse said fund in an amount equal to the entire expense incurred in making such examination or examinations, so that this fund may become a permanent revolving fund for the purpose of meeting the expense incurred in making such examinations."

This provision was inserted among appropriations for the year beginning July 1, 1937, and ending June 30, 1938. No similar provision was included among the specific appropriations for the year beginning July 1, 1938, and ending June 30, 1939. We find exactly the same situation in House Bill 532, Laws of 1935, pages 488, 501.

What was the intent of the legislature? In the sub-title, as well as the paragraph above quoted, the revolving fund is referred to as a "permanent revolving fund." While it appears in bad company in that it is found among the authorized expenditures for the first year of the biennium, it has not the characteristics of the other appropria-

tions in that, like the widow's barrel of meal which wasted not and the cruse of unfailing oil (1 Kings XVII 16) (the first permanent revolving fund), it is never used up nor actually spent. If a part of it is used to pay salaries and expenses of examinations of the different departments of the state government, it is constantly replenished by these departments. It is merely a trick or device of bookkeeping which provides a convenient fund, thus permitting the normal and uninterrupted functioning of an important arm of the government.

The state is in no way financially harmed by having this money placed in such unfailing fund. The use of the same money year after year in this way cannot be classed as one of the evils which the legislature sought to remedy by Chapter 40, Laws of 1937. The placing of this paragraph among the specific appropriations for the first fiscal year was an inadvertence for we think there was no intent on the part of the legislature to limit the use of the fund to just one year. This is apparent from the language used and the purpose of the fund. The legislature merely followed the practice of the previous legislative assembly, knowing that the same form of appropriation made in 1935 was used as it was intended to be, for the biennium. Taking into consideration the purpose of the fund, its actual non-expenditure and the evils to be corrected by Chapter 40, Laws of 1937, we think the placing of the paragraph where it is, is without significance and that the legislature intended the fund to be used for the biennium. We cannot believe that the legislature, knowing that the need for such fund will be the same for the second year as for the first year, especially where such lapse would serve no useful purpose and would stay the right arm of the state examiner.