

**Opinion No. 81.****Banks and Banking, pledge of security, when—Federal Agency.**

Held: State banks incorporated under the laws of Montana may make a valid and enforceable pledge of collateral to secure deposits of the Metals Reserve Company through its agent or agents as "money of the United States."

July 1, 1943.

Mr. W. A. Brown  
Superintendent of Banks  
State Capitol  
Helena, Montana

Dear Mr. Brown:

You have requested my opinion relative to the giving of security for deposits in a state bank.

The facts surrounding the deposit in the bank, are as follows:

A deposit has been made in a state bank in the name of the Anaconda Copper Mining Company, acting for and on behalf of the Metals Reserve Company. The account represents the operating funds used for the chrome properties, and originates through the Reconstruction Finance Corporation. The Metals Reserve Company is a federal agency using all government funds, and the mining company acts as their agents in the distribution of the funds. The Metals Reserve Company has requested that all funds over the amount of \$50,000.00 be subject to collateral security.

You request my opinion concerning the authority of the state bank to give security for the account of the Metals Reserve Company by its agent, the Anaconda Copper Company, in view of Section 6014.123, Revised Codes of Montana, 1935, as amended by Chapter

33, Laws of 1941, which provides in part as follows:

"It shall be unlawful for any bank to pledge, mortgage or hypothecate to any depositor any of its real or personal property as security for any deposit and any pledge, mortgage or hypothecation made in violation thereof shall be unenforceable; provided, however, that this provision shall not apply to any deposits of money of the United States and public funds deposited in accordance with the provisions of any depository act of this State, or the United States . . ."

The Metals Reserve Company is federally owned and operated, having been created by the Reconstruction Finance Corporation pursuant to authority of Section 5 of the Act of Congress approved June 25, 1940 (Public Law 664—76th Congress), as amended by Section 4 (b) of the Act approved June 10, 1941 (Public Law 108—77th Congress). All of the stock is owned by the Reconstruction Finance Corporation and it is financed exclusively with funds advanced by the latter. By Section 4 (b) of the act last cited above, the exemptions from taxation were made applicable to the Metals Reserve Company.

That the Reconstruction Finance Corporation is an instrumentality of the federal government and that all its property is the property of the United States, no doubt exists. (United States et al. v. Lewis et al., 10 Fed. Supp. 471; United States et al. v. Freeman et al., 21 Fed. Supp. 593; New York Investors, Inc., Reconstruction Finance Corporation v. Endelman et al., 79 Fed. (2nd) 179.)

In view of the fact the Metals Reserve Company is wholly owned and financed by the Reconstruction Finance Corporation, no other conclusion can be reached but that the moneys of the Metals Reserve Company and its agent or agents acting in its behalf, are moneys of the United States.

As such is the case, it is my opinion the state banks incorporated under the laws of Montana may make a valid and enforceable pledge of collateral to secure deposits of the Metals Reserve Company through its agent or agents as "money of the United States."

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General