

**VOLUME NO. 34**

**Opinion No. 7**

**BANKS AND BANKING - Superintendent of Banks' duty to report criminal violations to the attorney general - false statements or reports to bank examiner. Sections 5-1123 and 5-707, R.C.M. 1947.**

**HELD: 1. The provisions of section 5-1123, R.C.M. 1947, providing that the attorney general upon information furnished by**

the superintendent of banks shall bring any necessary action to enforce the provisions of the act, are applicable to the "Bank Act", Title 5, chapters 1-13, R.C.M. 1947, and not only to chapter 11, Title 5, R.C.M. 1947.

2. The provisions of section 5-707, R.C.M. 1947, providing penalties for persons who make false statements or reports to the bank examiner, are applicable to the "Bank Act", Title 5, chapter 1-13, R.C.M. 1947, and not only to chapter 7, Title 5, R.C.M. 1947.

June 23, 1971

Mr. John A. Dowdall  
 State Superintendent of Banks  
 State Capitol  
 Helena, Montana 59601

Dear Mr. Dowdall:

In your letter you requested my opinion on your duty and obligation to report to my office any criminal violations or wrongdoings that you may discover in the banks under your supervision.

Sections 5-1041, 5-1044, and 5-1045, Revised Codes of Montana, 1947, involve various criminal violations of the banking laws. The foregoing sections make no reference to the office of the attorney general. Generally, under the laws of Montana any criminal violations should be reported to the county attorney in the county where the alleged violation occurred.

However, section 5-1123, R.C.M. 1947, provides in part: "The attorney general, upon information furnished by the superintendent of banks, shall bring any actions necessary to enforce the provisions of this act." The foregoing section appears in Title 5, chapter 11, R.C.M. 1947, entitled "Closing and Liquidation of Banks."

The question raised by section 5-1123, R.C.M. 1947, is whether the word "act" refers only to chapter 11, Title 5, R.C.M. 1947, or the "Bank Act" as a whole.

A review of the legislative history of the "Bank Act" sheds some light on this question. In 1927 the twentieth session of the legislature, in chapter 89, revised and codified the banking laws of Montana. Since 1927 there have been many amendments but no major revision of the banking laws. Section 5-101, R.C.M. 1947, the introductory section to Title 5, R.C.M. 1947, states, "This act shall be known as the 'Bank Act'." Said section was originally enacted into law in section 1, chapter 89, Session Laws of 1927, and in the same chapter section 143,

which is now section 5-1123, R.C.M. 1947, was enacted. Based on the history of the "Bank Act", it is clear that section 5-1123, R.C.M. 1947, applies to the "Bank Act" as a whole and not just to Title 5, chapter 11, R.C.M. 1947.

In your letter you also inquired as to whether section 5-707, R.C.M. 1947, applies only to chapter 7, entitled "Bank Reports and Supervision" or to all of the "Bank Act". Section 5-707, R.C.M. 1947, provides in part: "Every officer or other person authorized by this act, who willfully and knowingly makes a false statement of facts, statement of account, or report . . . shall be deemed guilty of a felony. . . ." In light of the previous discussion of the legislative history of the "Bank Act", it is my opinion that section 5-707, R.C.M. 1947, applies to Title 5, chapters 1-13, R.C.M. 1947, and not just to chapter 7.

THEREFORE, IT IS MY OPINION that:

1. Based on the legislative history of the "Bank Act", section 5-1123, R.C.M. 1947, applies to the "Bank Act" as a whole and not only to Title 5, chapter 11, R.C.M. 1947; and
2. Based upon the legislative history of the "Bank Act", section 5-707, R.C.M. 1947, applies to the "Bank Act" as a whole and not only to Title 5, chapter 7, R.C.M. 1947.

Very truly yours,

ROBERT L. WOODAHL  
Attorney General