

TREASURER'S DRAFT:

Not required to be surrendered
to endorser.

May 20, 1933. ⁵²²



Honorable Richard R. Nacy,
State Treasurer,
Jefferson City, Missouri.

Dear Mr. Nacy:

This Department acknowledges receipt of your letter dated May 11, 1933, as follows:

"On March 3, 1933, Treasurer draft was issued to Irwin Williams for \$80.00.

This draft was endorsed in the name of Irvin Williams, which has been proven to be a forgery; however, not until the draft had run its regular course, and returned to this office. The party cashing the draft refuses to make good on his endorsement unless the draft is turned over to him.

Will you kindly advise if I am permitted to deliver the draft to him upon payment of the amount of it?"

We do not believe that the party cashing the above draft has a right to demand the surrender of the original draft to him before making it good. It is a well recognized rule that the best evidence obtainable is the original document which, in this case, would be the draft. However, Section 1660 R. S. No. 1929, provides as follows:

"Copies of all papers and documents lawfully deposited in the office either of the treasurer or auditor of the state, when certified by such officer and authenticated by the seal of office, shall be received in evidence in the same manner and with the like effect as the originals."

It will be seen from the above Section of the Statute that a copy of the draft duly authenticated in court will have the

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same effect as the original itself. We think, therefore, that you should make a certified and authenticated, or photostatic copy for the use of this endorser, and such instrument in his hands will serve all the purposes that the original itself will serve.

However, in as much as the question involved here is one of forgery, and it may be difficult to duplicate the handwriting upon a copy or photostatic copy, we believe it would be proper, if this matter should reach the courts, to take into court the original draft upon a subpoena or order of court for the purpose of being introduced into evidence. You, of course, would be permitted to withdraw the original instrument, after it had served its purpose for trial, and return it to the records and files of your office, where such original documents are required to be kept.

Very truly yours,

Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S