

**BANKS & BANKING:**

Commissioner and Special Deputy Commissioner should not invest funds in interest-bearing securities, but deposit same in state banks, savings banks or trust companies as provided by Section 5331 R. S. Mo. 1929.

1-31  
January 24, 1934.



Hon. O. H. Moberly  
Commissioner of Finance  
Jefferson City, Missouri

Dear Mr. Moberly:

We have your letter of January 24th, 1934, enclosing a letter from Mr. John C. DeWitt, Special Deputy Commissioner in charge of the affairs of The Kirksville Savings Bank, in which he requests an opinion from your Department relative to the investment of funds collected and in his hands as Special Deputy Commissioner as aforesaid. Your letter, and the pertinent part of his letter, are as follows:

"I am inclosing herein a letter received from Mr. John C. DeWitt, Special Deputy Commissioner in charge of the affairs of the Kirksville Savings Bank, and request you give me your opinion relative to the matter."

"As you will see by the report I have something near \$50,000.00 on hands, but owing to the fact that there is likely to be considerable controversy over preferred claims which are asked for, and probably some appeals from the circuit court's decision in the matter, I am wondering if there is a provision made for investment of these funds in Government Bonds or some interest bearing securities. Heretofore I have been able to get an allowance of interest amounting to 1% on daily balance from our depository here,

but I am today informed that hereafter no interest will be paid on deposits, and as it is likely to be quite a while before any disbursements can be made for the above reasons, I should like to receive some income from this amount of money."

The question is whether or not a Special Deputy Commissioner in charge of the affairs of a failed bank may invest funds he has on hands awaiting distribution in "Government Bonds or some interest bearing securities."

Section 5331 R. S. No. 1929, which is the same as when enacted in 1915, page 121, at which time all of the statutory law relative to banks, trust companies, savings banks and safe deposit institutions were amended, changed and revised, is as follows:

"The moneys collected by the commissioner shall be from time to time deposited in one or more state banks, savings banks or trust companies and, in case of the insolvency or voluntary or involuntary liquidation of the depository, such deposits shall be entitled to priority of payment on an equality with any other priority given by this chapter."

The statute makes special provision for the moneys collected by the commissioner, that same "shall be from time to time deposited in one or more state banks, savings banks or trust companies."

It is, therefore, our opinion that the commissioner and the special deputies should follow the method provided by statute for the caring for the funds in their hands awaiting distribution

January 24, 1934.

and that these funds should be deposited in the state banks, savings banks or trust companies, as set forth in the statute, and not by the commissioner or his special deputies invested in government bonds or some interest bearing securities.

Very truly yours,

GOVELL R. HEWITT  
Assistant Attorney-General.

APPROVED:

---

ROY McKITTRICK  
Attorney-General.

CRH:EG