

Bureau of Agriculture. Moneys collected by St. Louis  
shall be deposited daily in St. Louis, &  
can be legally paid out only  
pursuant to an Appr. by Com. Assn.

April 20, 1936.

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Hon. J. C. Breshears,  
Commissioner of Agriculture,  
Jefferson City, Missouri.

Dear Sir:

This acknowledges receipt of your letter of April 8, 1936,  
which is as follows:

"There has arisen a rush request for the making  
of a three-cornered agreement between the Bureau  
of Agricultural Economics of the U. S. Department  
of Agriculture, the Missouri College of  
Agriculture, and this Department, for 'a grad-  
ing service on dressed poultry and eggs'--and  
this brings up the need for a rush opinion from  
you, along the lines named below:

"1st--Does Senate bill 124 of the 1933 Legislature  
(page 415 Laws of Missouri) and Senate bill 215  
(Laws of Missouri, 1935, page 189) nullify any of  
the provisions in section 12,635, R. S., Missouri,  
1929?

"2nd--Do the laws mentioned in No. 1, or other laws,  
nullify any other provisions in Article 19, Chapter 87?

"3rd--If, in your opinion, that under above question  
No. 1, any of the provisions in section 12,635 are  
nullified, do you consider that this Department can  
legally receive and pay out salaries and expenses  
for a grading service under Senate bill No. 44 of  
the Laws of Missouri, 1933, pages 169 and 170, and  
our current appropriation found in section 41 on  
page 135 of the Laws of Missouri, 1935?

"4th--Provided that a three-cornered agreement were  
made to make the College of Agriculture the receiving  
and disbursing agent of all moneys under such an

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agreement, can this Department legally enter into such an agreement, in the light of your interpretation of the laws cited above and all other laws applicable thereto?

"Enclosed herewith, for your reference, is a copy of the Indiana agreement, which is expressive of what the B. of A. E. and the College of Agriculture ask us to sign, subject to any mutually agreed amendments. This thanks you in advance for speedy reply."

Attached to your letter is a Memorandum of Agreement of Purdue University Agricultural Experiment Station and the Federal Bureau of Agricultural Economics with reference to Federal-State Grading Service on Dressed Poultry and Eggs, which we are returning herewith.

From your letter and from personal discussion with you, we construe your question to be this: Does your Department have authority, having collected under the provisions of Section 12635, R. S. No. 1929, "all fees and moneys collected or received by employees or agents of the state marketing bureau," to pay out the same direct to the employees, agents, etc., or should those collections be paid into the state treasury and only expended pursuant to an appropriation made by the Legislature?

Section 12635, R. S. No. 1929, provides as follows:

"The commissioner shall exercise due care to the end that, as intended in this article, costs of actual shipping point inspections made shall be paid from the moneys or fees contributed by those applying for the service, thereby constituting said direct services self-supporting and not a burden upon the state treasury. And in carrying out the provisions of this article it shall be understood that all fees and moneys collected or received by employees or agents of the state marketing bureau, whether acting solely under the authority of said bureau or under the joint authority of said bureau and the U. S. department of agriculture, do represent reasonable charges and costs for definite services rendered and are therefore not to be considered as revenue to be paid into the state treasury under the meaning of the Constitution. All money representing such reasonable charges and costs for actual inspection

services rendered at the request of the applicant therefor may be received by responsible employes or agents of the state marketing bureau and paid over to inspectors to compensate them for actual services performed as may be most convenient for the efficient conduct of the inspection service. And the commissioner shall keep a correct and complete record of moneys thus handled and services paid for and submit same annually to the state board of agriculture at its annual meeting, and keep a copy thereof on file in his office at all times for inspection."

This section is under Chapter 87, having to do with the bureau of marketing farm products (Article 18), and having to do with standardization and inspection of agricultural products (Article 19), both of which were, prior to the 1933 act, under the jurisdiction of and were a part of the Missouri State Board of Agriculture.

Laws of Missouri, 1933, page 167, Section 12348, provides:

"All the rights, powers and duties heretofore conferred upon and vested by law in the Missouri State Board of Agriculture and the secretary of the State Board of Agriculture in any act \* \* \* are hereby transferred to the Commissioner of Agriculture hereby created, and the said Missouri State Board of Agriculture \* \* \* are hereby abolished."

It further provides that where any law refers to the Missouri State Board of Agriculture, the same shall, after the passage of this act, be construed as referring to and meaning the State Department of Agriculture and the Commissioner of Agriculture, created by said act.

In 1933, Laws of Missouri, 1933, page 415, the Legislature passed a law providing that

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, \* \* \* be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the General Assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated."

In 1935, Laws of Missouri, 1935, page 189, the Legislature enacted Section 12355-a, which provides as follows:

"All moneys collected by or through the Commissioner of Agriculture of the State Department of Agriculture from fees, licenses, permits or other earnings under any law, other than the business of the Missouri State Fair, shall be deposited daily in the state treasury to the credit of the 'Agricultural Fees Fund,' which shall be subject to appropriation by the General Assembly."

Of course, the moneys referred to in this opinion are not those arising from business of the Missouri State Fair, which latter moneys are excepted from the provisions of this section.

It will be noted that the provisions of this last expression of the Legislature, Section 12355-a, supra, are very broad and comprehend "all moneys collected by or through the Commissioner of Agriculture of the Department of Agriculture from fees, licenses, permits or other earnings under any law", other than the State Fair, and provides that said moneys "shall be deposited in the state treasury" and be subject to appropriation.

It appears that the moneys collected by your Department under the provisions of Section 12635 above come within the meaning of Section 12355-a, supra, and are moneys collected by or through the Commissioner of Agriculture of the State Department of Agriculture from fees, licenses, permits or other earnings under law, and should be deposited daily in the state treasury to the credit of the "Agricultural Fees Fund", and that the same are subject to be paid out only on appropriation by the General Assembly.

#### CONCLUSION

It is our opinion that you are not authorized to pay out funds collected by your Department under authority of Section 12635, supra, as fees and money collected or received by employees or agents of the State Marketing Bureau, whether acting solely under the authority of said bureau or under the joint authority of said bureau and the United States Department of Agriculture, but that the law contemplates that such collections

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received by your Department and all moneys collected by or through your Department from fees, licenses, permits or other earnings under any law, other than from the State Fair, shall be deposited daily in the state treasury to the credit of the "Agricultural Fees Fund", and that the same can be legally paid out by you only pursuant to an appropriation by the General Assembly.

Yours very truly,

DRAKE WATSON,  
Assistant Attorney General.

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General.

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