

Sl.

AUDITOR:

1. State Auditor cannot issue a warrant under sub-section D, Laws 1933, page 151, which section appropriates money for the operation expense of the motor vehicle registration department, to cover a loss due to robbery.
2. A warrant, can, however, be issued under such section to pay collection charges on checks during the bank moratorium.



June 29th, 1934.

Honorable Forrest Smith,
State Auditor,
Jefferson City, Missouri.

Dear Sir:-

We have your letter of November 16, 1933, in which was contained a request for an opinion as follows:

"Enclosed is a copy of a letter from V. H. Steward, Commissioner of Motor Vehicles, which is self-explanatory.

In view of the fact that a robbery existed in the Branch office at Clayton, Missouri, and the amount taken was in excess of \$113.50 insurance carried, please advise me if a warrant can be issued from the 1933 Laws, page 151, sub-section D under Operations to Richard R. Nacy for the amount of the loss of this robbery.

Also please advise if from this same appropriation the charge of \$32.18 can be paid for the collection charges on checks during the bank moratorium.

(Signed) Forrest Smith."

(Enclosure):

Honorable Forrest Smith,
State Auditor,
Jefferson City, Missouri.

October 2, 1933.

This is to certify that on May 24, 1933, the safe in the branch office at Clayton, Missouri, was opened and robbed. The amount taken from the safe was \$113.50 in excess of insurance carried. We respectfully ask that you issue a warrant payable to Richard R. Nacy, State Treasurer, for this amount.

This statement of facts is true to the best of my knowledge and belief.

(Signed) V. H. Steward
Commissioner of Motor Vehicles."

Hon. Forrest Smith--#2

June 29th, 1934.

Article X, Section 19, of the Constitution of Missouri, provides that no money shall be paid out of the state treasury except in pursuance of an appropriation made by law.

Sub-section D of the appropriation act for the Motor Vehicle Registration Department, Laws 1933, page 151, provides in part as follows:

"D. Operation:

General expense, consisting of communication, printing and binding, transportation of things, traveling expenses of commissioner of motor vehicle department, his representatives, within and without the state, and other general expenses including rent on branch offices and payment of premiums on surety bonds and insurance for branch office managers at seven cents per pair, for refund of overpayment and to redeem checks...\$ 408,800

In the case of Meyers vs. Kansas City, 18 S. W. (2nd) 900 (1929) the Supreme Court of Missouri sitting in banc stated concerning appropriation acts, at page 901, as follows:

"Another general rule in the construction of statutes, applicable as well to municipal ordinances, is that acts of the character here under review are to be strictly construed."

Having considered the above, we are of the opinion that a warrant cannot be issued under the section in question for the amount of loss, or any part thereof, occasioned by the robbery. There is no provision in the appropriation section which could be construed to include such, even did our courts permit a loose construction of such acts. In so much, therefore, as we cannot justifiably bring the situation within the act of appropriation no warrant can issue legally or constitutionally.

As to whether a warrant can issue under such section for the purpose of paying collection charges on checks during the bank moratorium we are disposed toward a different view. We feel that the wording and general purview of the section would permit a warrant to be issued for such a purpose. The general words "for refund of overpayment and to redeem checks" are used, and since paying the collection charges on the checks in question is certainly an essential part of the proper administration and operation of the department, we find no hesitation in

Hon. Forrest Smith--#3

June 29th, 1934.

approving the issue of such a warrant. The divergence between issuing a warrant for this purpose and issuing one to compensate for a robbery is, in our opinion, apparent.

Very truly yours,

CHARLES M. HOWELL, Jr.,
Assistant Attorney-General.

APPROVED:

Attorney-General.