April 25, 1952

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To Frank S. Carpenter, Treasurer
Re: Deposits of State Funds.

In your memo of April 2, 1952, you ask for an interpretation of Section 11 of Chapter 15 of the Revised Statutes of 1944. The last paragraph of that section, with which we are concerned, is here quoted:

> "No sum exceeding an amount equal to 25% of the capital, surplus, and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank shall be on deposit therein at any one time. The above restriction shall not apply to deposits subject to immediate withdrawl available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the state."

In your memo you state that the State Auditor in his report for the period July 1, 1950 to June 30, 1951, under the heading of "Recommendations" states:

"The State Treasurer should analyze the balances on deposit with State banks to determine if any deposits exceed the legal limitations. Chapter 15, Section 11, Revised Statutes of 1944, provides in part,
"No sum exceeding an amount equal to 25% of the capital, surplus, and undivided profits of any trust company, or national bank. . shall be on deposit therein at any one time."

You refer to an opinion dated June 29, 1950, of Ralph W. Farris, then Attorney General, ask if this office is in agreement with that opinion, and state that your present problem deals with funds on deposit in banks, which funds exceed the 25% limitations contained in Section 11 of Chapter 15 and are subject to immediate withdrawal by the Treasurer of State, but remain in the banks year after year.

You will note that the xception to the 25% restricrion is only if the sums are subject to immediate withdrawal, available to meet the payment of any bonded debts, or interest, or to pay current bills or expenses of the State. The sums to which you refer, although subject to immediate withdrawal, are not available to meet the payment of any bonded debt or interest or to pay current bills or expenses of the State, because, as you say, they are left in the banks year after year.

It is the opinion of this office that such funds as you refer to, deposited in banks and left there for long periods of time, must be in an amount not to exceed 25% of the capital, surplus, etc., as set out in the first sentence of the paragraph under consideration.

We are in complete agreement with Mr. Farris's opinion of June 29, 1950, and you will note that he interpreted Section 11 of Chapter 15 in the same manner in which this office now interprets it. We quote here from that opinion:

"Therefore it is my opinion that the 25% restriction in this section does not apply to deposits that are subject to immediate withdrawal in checking accounts in the banks which are deposited for the purpose of meeting payment of bonded debts, interest or to pay current bills or other expenses of the State."

Alexander A. LaFleur
Attorney General

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