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AN OPEN LETTER

FROM

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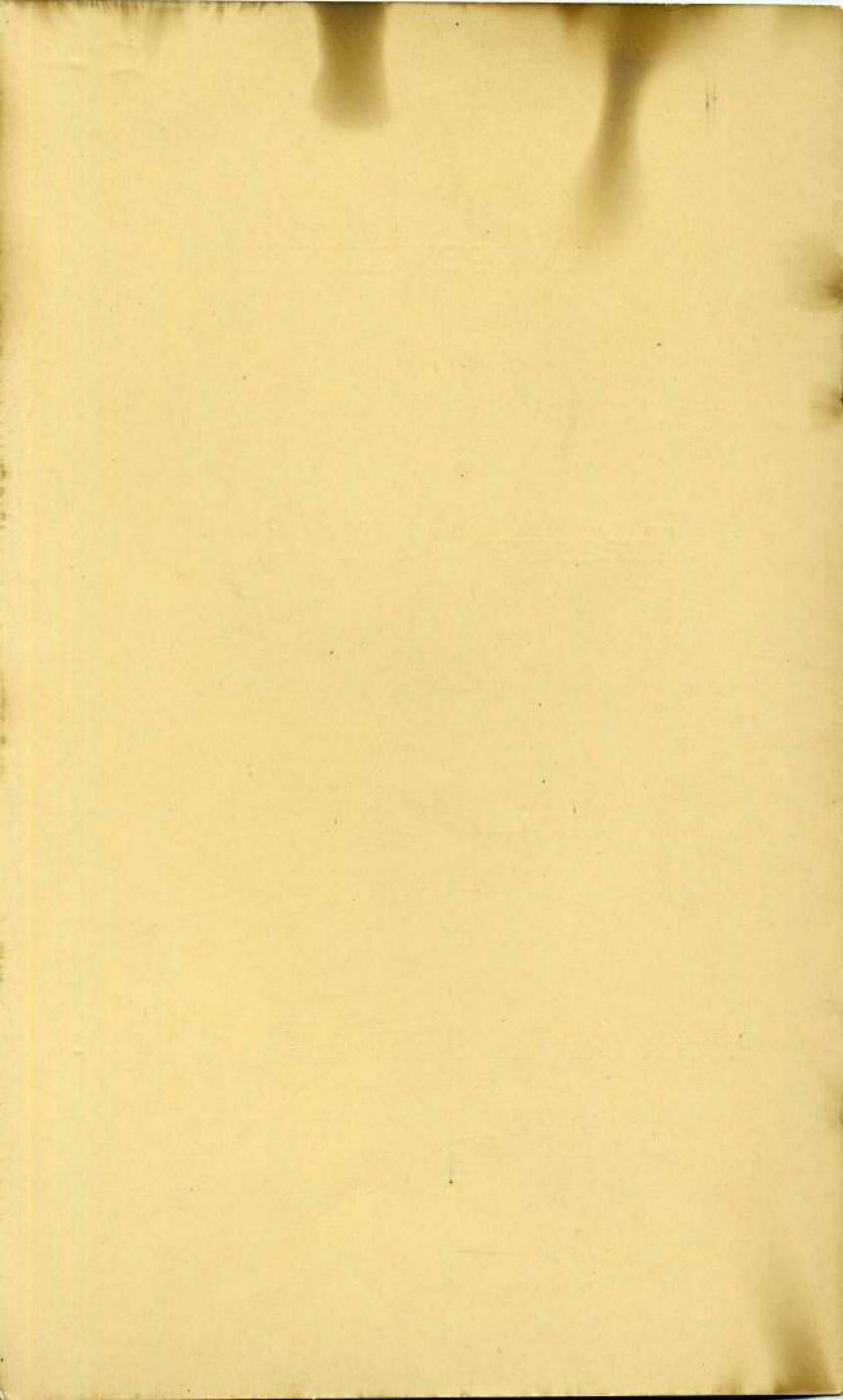
Treasurer W. S. Johnson

TO

Auditor J. S. Darst

RELATING TO

Present Customs and Practices in Hand-
ling Public Funds.



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TRIBUNE PRINTING CO., CHARLESTON, W. VA.

January 7th, 1919.

HON. J. S. DARST, *Auditor*,
Charleston, W. Va.

DEAR MR. AUDITOR:

I have your favor of January 2d, notifying me that you had completed the calculations of the amount of taxes due from the Public Utility Corporations of this State, amounting to \$4,500,000, and that you had sent each of them a statement of the amount due.

You say that it has been your custom in the past to direct each one of these concerns the depository bank in which you desired this money placed, and the amount to be placed in each, and to be deposited in such manner that the money paid into the Treasury from each section would be deposited in the depositories situate therein. You state that you have requested the former Treasurer on several occasions to assist you in making these distributions and that you invite and welcome me to your office for this purpose. In your closing paragraph you say:

“I will further state that I am now and have been glad to have the fullest co-operation between your office and mine in the depositing of all moneys over which your office or this office may have control, and we ought to be able as public servants to jointly consult each other and

work together, to the end that the State may have our united co-operation and judgment in conducting this branch of the State's business, or any other State business."

When I took charge of the Treasurer's office, March 5th, 1917, I found very much to my surprise that no Treasurer up to that time had ever attempted to deposit a dollar of the public funds. I found that the money paid by the subscribers to the Compensation Fund was being turned over to the Treasurer by the Compensation Commissioner and that former Treasurers had been handing this, as well as all other funds coming into his hands, over to you for deposit in the banks. The public seemed to think that you were the only official entitled to deposit this money. I made an investigation, and found that the law did not confer upon the Auditor nor the Treasurer any authority to receive or deposit any part of the public fund, but specified that the person owing same shall make payment of the amount owed to the State by depositing the amount due in some depository bank himself. Thereupon I addressed a letter to the Attorney-General, asking an opinion, and the following was received in reply:

December 29, 1917.

"HONORABLE W. S. JOHNSON,
 "State Treasurer,
 "Charleston, W. Va.

"DEAR MR. JOHNSON:

"I received your letter of recent date in which you ask for my opinion as to whether or not the

State Treasurer has the right, under the law, to deposit in a bank designated as a State depository, the moneys coming into his hands from the Workmen's Compensation Fund.

"I beg to say in reply, that all moneys belonging to the State, whether coming from the Workmen's Compensation Fund or otherwise, must be deposited in compliance with Section 2, Chapter 17, Code of West Virginia. This statute provides that these deposits shall be made by the person owing the State, in some bank designated as a State depository, but I take it there is nothing in this statutory provision, or under the general principles of law that would prevent anyone who desires to deposit money to the credit of the State, to send such money direct to you, thereby authorizing you, as the agent of such person, to make such deposits in the manner set out in Section 2, Chapter 17 of the Code above referred to.

"Very truly yours,

"E. T. ENGLAND,

"*Attorney General.*"

After receiving this opinion, I at once began depositing the money received from the Compensation Commission. You immediately applied to the Attorney-General to know if I could legally do this, and was answered, as I understand, in the affirmative. After you found that you could not deprive me of this privilege by legal steps, you wrote the following letter to every depository bank in this State, with the evident purpose of decreasing as much as possible the amount being turned over to me for deposit:

“January 3, 1918.

“GENTLEMEN :

“It occurred to me, as there is considerable money paid from your vicinity for the Workmen’s Compensation, it might be good business for you to ask these people to deposit the money due the State in your bank, and you then send certificate of deposit direct to Commissioner Ott, and he in turn will deliver it to this office.

“This is the lawful way for anyone to pay claims due the State of W. Va., by placing the money in some depository authorized to do business in the State, and send the certificate to the proper person.

(Signed) “J. S. DARST, *Auditor.*”

Comment upon this letter is unnecessary. However, under date of January 7th, 1918, I transmitted the following letter to the State depository banks :

“DEAR SIRs :

“I desire to call your attention to the fact that I have recently taken over the depositing of the funds of the Workmen’s Compensation Commission, which has since its creation been deposited by Hon. J. S. Darst, Auditor, who, I understand, has written all the State depositories requesting them to use their good offices to induce the subscribers to this fund to pay their premiums direct to the banks instead of remitting to the Commission as heretofore.

“If the suggestion of the Auditor is followed by all the subscribers to the Compensation Fund, it will deprive me of a privilege he has enjoyed since the compensation law was passed.

“It is apparent that the Auditor’s interest in

your bank securing the deposits spoken of in his letter did not begin until I took over the depositing of those funds.

“I trust your bank will not be a party to this scheme, for I desire a continuation of the very pleasant relations that have heretofore existed between your bank and this office.

“I am trying to place the financial affairs of this State upon a better business basis and to this end solicit your co-operation and support.

“For the information of your bank and the subscribers to the Compensation Fund, I am enclosing you a copy of the opinion of the State’s legal adviser, Hon. E. T. England, Attorney General, showing that I have the legal authority to handle these funds and for the safety and protection of which the law requires me to give a special bond of ten thousand (\$10,000.00) dollars.

“Wishing you a prosperous New Year, and with personal regards, I am,

“Very truly yours,

(Signed) “W. S. JOHNSON,

“*State Treasurer.*”

In your letter you invite and welcome me to your office to assist you in making distribution among depository banks of the \$4,500,000.00 due to be paid soon by the Public Utility Corporations of the State. This same question came up, you will recall, one year ago. I contended then that your system of handling these millions was fraught with danger and would result in endless chaos, and in order to protect the State and taxpayers from the possibility

of loss and the banks from annoyance and embarrassment, I submitted to the Board of Public Works, on December 20th, 1917, a resolution embodying my ideas of a safe, sane and business-like method of handling these millions, as follows:

“Resolved, That all utility corporations of this State be and the same are hereby requested to pay their 1917-1918 taxes, when due, by check or draft, in amounts not to exceed \$20,000.00, drawn in favor of W. S. Johnson, State Treasurer, and forward same to J. S. Darst, Auditor. And the Auditor is hereby directed to transmit a copy of the foregoing resolution to each public utility corporation.”

You opposed this resolution very bitterly. The Board of Public Works, while expressing themselves as favoring the plan, were of the opinion that they did not have the authority to adopt the resolution. You then proceeded with the distribution of the aforesaid millions in the same manner as formerly, without, I might add, any request for assistance or co-operation from me. After you had completed the job, under what you term is the best system ever devised, and which you recommend should not be changed, I proceeded to check you up, and found:

1.—That more than one million dollars had been deposited in banks in excess of the banks' bonds, for which the State had no bonded protection.

2.—That more than one-half million dollars had been deposited in banks whose bonds had expired

before the money was deposited. (It is an undecided legal question as to the liability of a bank's bond for deposits made after the date of expiration of same.)

3.—That a number of banks with good bonds did not receive a single penny in the distribution of this vast sum of money.

4.—That after you had finished depositing these millions, I found that more than one-fourth of the total amount of money in the State Treasury had been deposited in the banks in one city of the State, in violation of Sec. 3 of Chap. 17 of the Code, which says:

“The money collected in any senatorial district of this State shall be deposited in some lawful depository of State funds situate therein.”

The Board of Public Works, having their attention called to the over-deposits in the banks, passed the following peremptory order:

*“Order Entered by the Board of Public Works
January 22, 1918.*

“Whereas, a large number of the depository banks of this State have a greater amount of money on deposit than is protected by their respective bonds, and while a large number of said depositories have not received and do not have as much of the State's money as their bonds permit them to have; therefore be it

*“Resolved, By the Board of Public Works,
That the Secretary of this Board be and he is*

hereby directed to communicate with each of the State depositories who now have an amount of money in excess of their bonded liability to the State and direct them to forward the amount now held by them in excess of their bond to W. S. Johnson, State Treasurer, by checks or drafts, properly certified, payable to the Treasury of West Virginia, with the endorsement on face or back of same 'For deposit only in the State Treasury,' and that when said checks or drafts are received by the Treasurer he is directed to deposit them in some depository or depositories legally entitled to receive same."

You state that you are now and have been glad to have the fullest co-operation between your office and mine in the depositing of all moneys over which your office or mine may have control. If you will examine your files you will find that on March 19, 1918, I wrote you asking your co-operation, as follows:

"HON. J. S. DARST, *Auditor*,
"Charleston, W. Va.

"DEAR MR. AUDITOR:

"I attach hereto a copy of a letter I am sending each of the 180 State depositories, which will give you an idea of the manner in which I am trying to systematize the business of my department.

"After the withdrawals are made this month the balance in the Treasury will be approximately \$2,000,000.00 and same will be equitably distributed among the various depositories over the State. I want to leave this money undisturbed as long as possible and use the current

funds in a few of the largest banks for the payment of the current bills and monthly payrolls.

“This plan will, in my opinion, give the depositories a greater feeling of security in handling their balances of State money and relieve this office of a large volume of unnecessary work by reducing my active checking accounts from 180 to a small number.

“In ninety-five per cent of the States in the Union the State Treasurer has absolute control over the depositing of all State funds, and while this State is practically the only exception to the rule, I feel sure you will gladly co-operate with me in my effort to place the affairs of my department upon a more systematic and business-like basis.

“Kindly let me know if I may expect your assistance and co-operation in this matter.

“With kindest personal regards, I am,

“Sincerely,
(Signed) “W. S. JOHNSON,
“*Treasurer.*”

The following is the letter to banks referred to in the above.

“GENTLEMEN :

“The distribution of the money in the Treasury belonging to the various counties, districts and municipalities, and the recent investments by the Board of Public Works, all of which amounts to approximately \$5,000,000.00, will be withdrawn from the depositories during this month.

“I expect to make this withdrawal in a manner that will leave each county its equitable

share of the balance remaining in the Treasury, upon the basis of amount of taxes paid by same, and the balance in each county will be apportioned among the several depositories in the county according to the amount of bond given by each. After this is done you will have a balance of approximately \$.....

“If I can secure the co-operation of the other officials who have authority to deposit the moneys received by them for the State and have same deposited by them in a few of the largest banks for the payment of current bills and monthly payrolls, the balance in your bank will not be disturbed except to take care of some future investments by the Board of Public Works, and this would be withdrawn upon a percentage basis and would not work a hardship upon any bank.

“This will also relieve this office of a large volume of unnecessary work by reducing the number of active checking accounts from 180 to a small number.

“In the event the receipts exceed the disbursements in the future, the excess will be equitably distributed among all the depositories from time to time.

“Trusting that this plan will meet with your approval, and with kindest personal regards and best wishes, I am,

“Sincerely,
(Signed) “W. S. JOHNSON,
“*Treasurer.*”

I addressed this same letter to the heads of all the departments and received replies from the head of

practically every department but yours, in which they endorsed my plans and pledged me their support. On March 20, 1918, you answered my letter as follows:

“HON. W. S. JOHNSON, *Treasurer*,

“Charleston, W. Va.

“DEAR MR. JOHNSON:

“I am in receipt of your letter of March 19th, enclosing a copy of letter you have sent to the different State banks which have qualified as State depositories.

“Thanking you for this information, I beg to remain,

“Respectfully,
(Signed) “J. S. DARST, *Auditor.*”

On April 9th, 1918, I submitted my plan to the Board of Public Works for their approval or disapproval, with the following result:

“I, Houston G. Young, Secretary of State and ex-officio Secretary of the Board of Public Works, do hereby certify that the following is a true and correct copy of a resolution adopted by said Board at a meeting held April 9, 1918:

“*Whereas*, Treasurer W. S. Johnson has communicated to the members of the Board of Public Works and to the State officers charged with the responsibility of depositing public funds his plans of perfecting a uniformity in the handling of deposits and disbursements in the various depositories which will be more in harmony with modern and systematic business

principles and will permit the expedition of business with less detail involved, which plan we believe will have the support and endorsement of the various State depositories, in that it will assure a greater degree of security and stability in maintaining certain fixed balances in the depositories; and

“*Whereas*, Treasurer Johnson has called upon the Board of Public Works for an expression of approval of the suggestion outlined by him; therefore be it

“*Resolved, by the Board of Public Works*, That we endorse the plans of the State Treasurer in connection with the re-organization of the system of depositing State funds, and while we recognize the fact that no legal authority is vested in this Board to change in any measure the system of handling the deposit of State funds, yet we believe the plan will bring forth good results, and we pledge the moral support of this Board in assisting him in carrying the same into effect.

“Given under my hand and the Less Seal of the State, this 10th day of April, 1918.

(Signed) “HOUSTON G. YOUNG,
“*Secretary of State, and ex-officio Secretary of the Board of Public Works.*”

And now, Mr. Auditor, permit me to quote two more letters, received and transmitted as late as in May of 1918. The first, a letter from the Interstate Steamship Company of Pittsburg, Pa., through its auditor, and the second my reply to it, as follows:

"Pittsburg, May 29th, 1918.

"TREASURER, STATE OF WEST VIRGINIA,
"Charleston, W. Va.

"DEAR SIR:

"The enclosed check No. 214 for \$250.00, covering License Tax, has been returned to us by J. S. Darst, Auditor, requesting that we have it made payable to his order instead of to the Treasurer.

"In examining our records to see what has been done in the past, we find that the practice has always been to make checks payable to the Treasurer, which has been accepted by you and the usual endorsement placed thereon. Not having received a formal notice of any change in this regard, and since the check has been certified by our bank and passed through our records, ask that you please accept it in this instance, sending formal notice to guide us in the future.

"Hoping this will be agreeable, we are,

"Yours truly,

"INTERSTATE STEAMSHIP COMPANY,

"ELMER E. TOERG, *Auditor.*

"Enclosure."

To which letter, under date of June 4th, I replied as follows:

"INTERSTATE STEAMSHIP COMPANY,

"Pittsburg, Pa.

"GENTLEMEN:

"I have your favor of the 29th, enclosing certified check No. 214 for \$250.00, covering license tax which you say was returned to you by J. S. Darst, Auditor, requesting that same be

made payable to his order instead of to the Treasurer.

"I note that you say it has been the practice of your company in the past to make checks payable to the Treasurer.

"Your method of making payment in this case to the State Treasurer is following the universal custom in practically every other state in the Union, and should have been accepted without any question by the Auditor of this State.

"An official receipt for this money will be mailed you within a few days.

"Yours very truly,
 (Signed) "W. S. JOHNSON,
"Treasurer."

Regardless of the fact that you, in your reply to my request for co-operation, simply ignored the same, and regardless of the fact that you have used every possible effort to deprive me of the privilege of depositing any of the State's funds, I am still willing and anxious to assist and co-operate with you if it is your intention to inaugurate devise and perfect a system of handling the depositing of this \$4,500,000.00 that will be safe and business-like and will at the same time protect and safeguard the interests of the State and the taxpayers. But I most respectfully decline to be a party to any plan, custom or practice that is sure to result in chaos, confusion and the probable loss of a large sum of money to the State.

Most sincerely yours,
 W. S. JOHNSON, *Treasurer.*

