

OFFICE OF
Attorney General
State of Arizona
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PHOENIX, ARIZONA

G. P. BULLARD
ATTORNEY GENERAL

June 26th, 1912.

David Johnson, Esq.,
State Treasurer of the State of Arizona,
Capitol Building,
Phoenix, Arizona.

Dear sir:-

In response to your query for a construction of Senate Bill No. 29, passed at the special Session of the Legislature, I wish to say:

In my opinion, said Bill provides for a system whereby all the appropriations made and Funds carried by the State Treasurer shall be a debit against the public money or moneys in the custody of the State Treasurer and that any warrant drawn against the State Treasurer, no matter out of what Fund payable, shall be paid out of any funds in the hands of the Treasurer at the time the warrant was presented to him; said warrant being credited to the Fund, however, upon which it was drawn and no warrant being allowed or paid in excess of the appropriation upon that particular Fund, or in excess of the appropriation for the particular purpose for which the warrant was drawn. Such was the evident intention of the Legislature in enacting this law. Unmistakably, they intended to change the entire system which had been carried on formerly of handling the public funds, which former system did not permit the paying of a warrant unless there was money in the Fund to meet it. The purpose of the Legislature in passing said Senate Bill No. 29 evidently being that the public funds should be carried by the State Treasurer as deposits are by a Bank and that warrants on a fund should be paid out of any

moneys on hand in the public Treasury as long as they do not exceed the amount to the credit of the Fund upon which they are drawn. The only question that arises in my mind is whether or not this particular Bill came under the Governor's call and was covered by the subjects mentioned in the Governor's call for the Special Session. I am of the opinion that it does, still the question is one of such vital importance and the change so radical that it might be safer that the matter should be put up to the Supreme Court of the State for judicial construction before you act on it. The legal situation as pertains to your offices, that if this Bill is covered and included within the subjects mentioned in the Governor's call for said special Session, then, in that case, as long as there are any public moneys in the Treasurer's hands warrants should not be registered because there is no money in the particular fund upon which the warrant is drawn but should be paid out of any moneys in the Treasurer's hands. On the other hand, if the subject matter of the Bill is not included amongst the subjects designated in the Governor's call, then, in that case, if there be no money in the specific fund to pay the warrant, the warrant should not be paid and should be registered by you and draw interest as provided by law. In order that a test case may be brought to determine this question I would advise you that wherever the fund is exhausted upon which a warrant is drawn and there are no funds in the Treasury of that particular fund to meet the warrant, that you both refuse to pay the warrant or to register the warrant until mandamus is obtained to do so. The matter may thus be directly taken before the Supreme Court and tested and the validity or invalidity of the law established. If such a case is brought I will facilitate its early hearing by im-

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mediately answering on behalf of yourself and consent to an immediate hearing to determine the question.

I suggest this course solely on the grounds that you may be thoroughly protected in the matter. Personally, my opinion is that the law is constitutional; it containing many provisions which directly come within the subjects mentioned in the Governor's call and the balance of the bill, to a certain extent, relates to revenue, which is another subject mentioned in the Governor's call.

Very respectfully,

G. P. Buel

Attorney General.