Banks on Indian Reservations, Authority of Examiner Over. Private Banks on Indian Reservations. Indians, Business of and With on Indian Reservations. Superintendent of Banks, Power of.

The state has no jurisdiction over Indians or business pertaining to Indians on Indian Reservations whether this business is financial or otherwise. A private bank operated on an Indian Reservation is not subject to state jurisdiction where the only business transacted is with the Indians or the officers of the government in the discharge of their official duty; but where a banking business is done with other persons, such private banks are subject to examination.

Helena, Montana, November 30, 1915.

Hon. H. S. Magraw,
Supt. of Banks,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 22nd instant, submitting the question,

> as to whether the Sherburne Mercantile Company of Browning, Montana, is doing a banking business within the meaning of the laws of the state relating to private banks?

The mere fact that this company is operating within the boundaries of an Indian reservation does not exempt it from the state law relating to banks, if it is actually doing a banking business within the meaning of such law. The statement made in the letter which you attach to your correspondence is to the effect that this company is on an Indian reservation, and that there are no residents there except wards of the government. The letter does not state whether the company is doing business with any except wards of the government, but is only to the effect that the residents there are wards of the government. It is fundamental that the state has no jurisdiction over In-

dians or Indian business within an Indian Reservation. Hence, the business that the company does with the Indians or wards of the government is wholly beyond the jurisdiction of the state, and if the company is doing business with those not wards of the government, and not acting in their official capacity as officers or servants of the Federal Government, the question of fact as to whether it was a banking business would have to be determined by taking into consideration the methods and manner, etc., in which such business was conducted. The mere fact that some one may leave with the firm moneys for safe keeping until called for, or that the same shall be delivered upon the written order of the owner, and that such deposit or leaving is not solicited, and no remuneration passes to the firm, and no right vested in the firm to use such money in its business or otherwise, is not banking within the meaning of our banking laws, but is a mere favor or gratuitous bailment. It is wholly immaterial whether the company intends to do a banking business or not. The facts alone must govern without regard to the company's intent. Soliciting deposits or receiving money as deposits, and using the same in the furtherance of the business of the company would bring the company within the meaning of the private banking law. However, this could only go to your right to examine, for by the correspondence submitted, this company was doing business there many years prior to the enactment of said Chapter 89. In determining the question as to whether this company is doing a banking business, its relation to those not wards of the government should alone be considered.

Yours very truly,
J. B. POINDEXTER,
Attorney General.