

Opinion No. 416**Banks and Banking—Superintendent of
Banks, Powers of—Proxies—Voting
Bank Stock.**

HELD: The Superintendent of Banks has no authority under the statute to vote bank stock by proxy, and his doing so would be inconsistent with his duties as Superintendent and in violation of Section 58, Chapter 89, Laws of 1927.

January 5, 1934.

You have submitted paragraph 6 of a contract made in connection with the Montana Bank and Trust Company of Great Falls, Montana, being in the following language: "6. While Mr. Bremer's stock in the new bank is to be issued to him, it is to be deposited under a Trust Agreement to be approved by the Superintendent of Banks, with

D. A. Crichton, A. E. Stiles and Frank Roberts as Trustees for the depositors of the closed bank, or their successors in interest, such stock to be voted by the Superintendent of Banks of the State of Montana, or his successors in office." You have asked my opinion on the following question: "Will you kindly advise me if I have any authority to vote stock as Superintendent of Banks, or whether I could have the proxy from the stockholder on record and simply approve of the party to whom he gives the proxy?"

Section 58, Chapter 89, Laws of Montana, 1927, provides: "Neither the Superintendent of Banks nor any bank examiner shall be interested in or a borrower from any State bank, directly or indirectly." In view of the above-quoted statute it is my opinion that you have no authority to vote the stock in question for to do so might indirectly, if not directly, interest you in the bank. In order to vote the stock on any question or issue it would be necessary for you to give consideration to and to pass judgment upon such question or issue. Your judgment as Superintendent of Banks might be influenced by such action. While, of course, you are not financially interested in the bank, yet the duties and obligations of voting the stock as proxy would, in my opinion, be inconsistent with your duty as Superintendent of Banks.

While there might be some doubt in this connection, if there is any doubt at all you should, in my opinion, refrain from voting said stock.