

Opinion No. 191.

**Banks and Banking—State Banks—
Insurance Agency.**

HELD: A state bank does not have the power to act as an agent of fire insurance.

October 24, 1935.

Hon. Frank H. Johnson
Superintendent of Banks
The Capitol

You have submitted the question whether a state bank, as a corporation, is prohibited from acting as an agent of fire insurance.

I find no statute prohibiting a state bank from acting as an agent of fire insurance, but since a bank is created by law for certain purposes, the extent of its powers is measured not by what is prohibited but by what is

granted by law. The articles of agreement and certificate of authorization provided for by Section 6, Chapter 89, Laws of 1927, determine the extent of the powers of commercial banks, savings banks, trust companies and investment companies, as they are defined by Section 4 of said chapter. The scope of powers of such banks, as was defined, does not include the power to act as an agent for fire insurance.

A commercial bank is defined by Section 4 (a) Id., as follows: "The term 'Commercial Bank', when used in this Act, means any bank authorized by law to receive deposits of money, deal in commercial paper, or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes, or other commercial papers, and to buy and sell securities, gold and silver bullion, or foreign coins, or bills of exchange."

The power to act as agent of fire insurance is not, in my opinion, an incident to any of the express powers enumerated and, therefore, cannot be implied therefrom. Section 28 Id., which authorizes and empowers a state bank to join or associate itself with the Federal Reserve Bank, contains the provision: "Any bank joining or associating itself with such bank shall be permitted to conform to and transact its business in accordance with the terms and provisions of the act of Congress creating the same, and the rules and regulations of such Federal Reserve Bank."

The phrase "its business" as used in this section, must mean the business of a commercial bank or the purpose for which a state bank is organized. The intent of this section is not to enlarge the purpose of a state bank so as to permit it to engage in some other business but rather to permit it to conduct its banking business, for which it was created, in accordance with the terms and provisions of the act of Congress creating the Federal Reserve Bank and the rules and regulations of such Federal Reserve Bank.

I am, therefore, of the opinion that a state bank does not have the power to act as agent of fire insurance.