

**Foreign Corporation, Annual Report of.**

Under the provisions of Senate Bill No. 46, Laws of 1901, p. 150, the annual report of a corporation required to be filed by the corporation cannot be made and filed by the resident agent, unless he show full power and authority vested in him to act for the corporation.

April 25, 1905.

Hon. A. N. Yoder, Secretary of State, Helena, Montana.

Dear Sir:—You have submitted to me the statement of the Montana Gem Stone and Gold Mining and Milling Company, filed in your office at the time they commenced business in this State, April 10, 1902, pursuant to the provisions of the laws of 1901, p. 150, and also annual report of said company made by Walter Matheson, resident agent, and have asked my advice as to whether or not said annual report substantially complies with the law and whether you should accept and file the same. In reply will say that after having examined the statement of said company filed in your office at the time they commenced business in the State, particularly as to the power and authority conferred upon the resident agent, I am of the opinion that the annual report now tendered you for filing is not a substantial compliance with the law and that you should not receive or file the same. In explanation of this advice, permit me to say:

Said annual report is not made in substantial compliance with the requirements of Section 4 of Senate Bill No 46, Laws 1901, p. 150. A foreign corporation is required to file an annual report in the office of the county clerk of the county wherein the business of the corporation is carried on and a duplicate in the office of the secretary of state, in the same form and containing the same information as is required in the statement it is required to make and so file at the time it enters into business in this State; and, therefore, the form and information is that prescribed by Subdivision 1 to 6, inclusive, of Section 1 of said act.

The form of report of said company which you have submitted to me is sworn to by the resident agent and is not attested by a majority or any of the board of directors of the company. The law providing that the "corporation shall" annually make a report, clearly the resident agent cannot act for the corporation, unless he show full power and authority duly vested in him by resolution duly passed by the board of directors and authenticated. As the law above referred to is enacted for the purpose of protecting persons dealing with such corporation, I think it

clearly within your provision to require substantial compliance with the law in the making of such annual reports before filing the same, and I therefore advise you to refuse to file the annual report of said corporation until the same is made and duly verified by the oath of the president and secretary of the corporation and attested by a majority of its board of directors, or until there is filed with same a properly authenticated adopted resolution by the board of directors of such corporation vesting in the resident agent power and authority to act for the corporation in the making and filing of its annual report.

Yours very truly,

ALBERT J. GALEN,

Attorney General.

Note.—See State vs. Rotwitt, 17 Mont. 537.