

Corporations, Use of the Word "Trust" or "Savings" in Title. "Savings" and Trust," When to Be Used in the Title of Corporation.

Chapter 159, Laws 1907, prohibits the use of the words "Trust," "Trust Company," "Savings" or "Savings Bank" in any corporation not incorporated under Sections 590 to 611 of the Civil Code. And the fact that the corporation using such words in its title was incorporated before the passage of said Chapter 159 does not exempt it from the operation of said law.

Helena, Montana, Oct. 9, 1907.

Hon. T. E. Collins,
State Examiner,
Helena, Montana.

Dear Sir:—

Your letter of September 30, received, in which you request an opinion upon the following statement of facts:

The Billings Loan and Trust Company was incorporated under the laws of Montana in 1903. It was not incorporated under sections 590 to 611, inclusive, of the Civil Code, which provides for the incorporation of "trust deposit and security, and savings bank corporations," but was incorporated under the general incorporation laws of the State with a capital stock of \$25,000.00, and its term of existence fixed at twenty years. Chap 150, Laws of 1907, provides that it is unlawful for any corporation not incorporated under the laws of Montana relating to "trust" deposit and security, and savings bank corporations" to use the words "trust", or "trust company", "savings" or "savings bank" in the title of its business.

Does the fact that the Billings Loan and Trust Company was incorporated prior to the passage of said Chapter 159 of the laws of 1907, exempt such company from the provisions of such law, or do they violate such law by continuing to use the word "trust" in the title of their business.

At the time the said Billings Loan and Trust Company was incorporated section 2 of article 15 of the State Constitution was in full force and effect, as was also section 394 and section 550 of the Civil Code. The above laws provide that every grant of corporate power is subject to alteration, suspension or repeal, in the discretion of the legislative assembly.

The Supreme Court of this State in *Allen vs. Ajax Mining Company*, 77 Pac. 47, in construing the above law said:

"And it is likewise true that the plaintiff, Allen, when he subscribed for stock in this company, did so, charged with the full knowledge of the constitutional and statutory provisions then existing, under which the legislature might at any time alter, amend or repeal the provisions of the law which was made a part of its charter: and he must therefore be treated as having given his tacit consent that such change might be made at any time as in the wisdom of the Legislature might be necessary, and this as fully as if he had signified such consent by a writing duly subscribed by himself."

You are therefore advised that said chapter 159, Laws 1907, in effect amends the charter of said Billings Loan and Trust Company by prohibiting such company from using the word "trust" as a part of its title, and if they continue so to do it is in violation of said law. The word "Trust" should not be used in any of the advertising, signs or other places, as a part of the title of said company.

Very truly yours,

ALBERT J. GALEN,
Attorney General.