

State Examiner, Authority Over National Banks. Banks, Reserve, Designation Of. Reserve Banks, What May Be.

The state examiner under Chapter 110, Laws 1907, has no authority to designate a National bank as a reserve bank, as he only has jurisdiction over banks incorporated under the laws of this state or doing business under its laws.

Helena, Montana, May 29, 1908.

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

Dear Sir:—

Your request for an opinion upon the following proposition received:

"I have been requested by a National bank to appoint it as a reserve agent for state banks. Please advise if, under Chapter 190, page 499, 1902 Laws, Section 2, a state examiner has authority to appoint a National bank as a reserve agent? Is not his authority in this matter limited strictly to state banks?"

Subdivision 4 of Section 491, Political Code, as amended by Chapter C, Laws 1903, defines the power of the state examiner over banks and reads as follows:

"To visit once each year, or oftener, without previous notice, each of the banks, banking corporations and savings banks, building loan associations, investment and loan companies, incorporated under the laws of this state or doing business under any law of this state concerning corporations, and to examine into their affairs and ascertain their financial condition," etc.

Section 497, as amended by Chapter 149, Laws 1907, provides for fees to be paid by banks, etc., under supervision of the state examiner, and reads as follows:

"Each bank, banking corporation, savings bank, investment and loan company, subject to the supervision of the state examiner under the laws of this state, shall pay to the state treasurer * * * a fee according to its capitalization, at the following rates," etc.

From the above provisions of our law it is apparent that the state examiner has no jurisdiction over national banks, and cannot exact any fee to cover expenses incurred in making examinations of them, in the event that he was permitted at all to make such examinations. The management and affairs of national banks are in no way regulated and controlled by state laws.

Chapter 190, Laws 1907, by Section 1, transfers certain duties heretofore imposed upon the state auditor, in relation to banks doing business under the laws of this state, and imposes such duties upon the state examiner. But such law does not in any way confer authority upon

the state examiner to supervise or deal with national banks. Section 2 of said Chapter 190 provides that "every bank shall keep on hand at all times at least fifteen per cent of its total deposits, of which such portion as the board of directors may determine may be on deposit in banks in cities of the first and second class, approved by the state examiner as reserve banks."

In our opinion the words "every bank" at the beginning of said section, and the words "reserve banks" as used in said section, refer only to banks over which the state examiner has jurisdiction; that is, banks, etc., incorporated under the laws of this state or doing business under such laws, which, of course, would not include a national bank.

The absurdity of the state examiner designating a national bank as a reserve bank is apparent when we consider the fact that under the law of this state the state examiner would not have any power or right to examine the affairs of such national bank for the purpose of ascertaining whether it was maintaining the reserve required by said Chapter 190 or not, and the further fact that he would have no authority under the law to collect a fee to cover the expense of making such an examination, if the officers of the national bank consent to his doing so. You are therefore advised that in our opinion you have no authority under the law of this state to designate a national bank as a reserve bank. They are clearly outside of your jurisdiction, and you would have no more right so to do, than you would to designate any other class of corporations which are not placed by law under your special jurisdiction.

Very truly yours,

ALBERT J. GALEN,
Attorney General.