

**Banks, Branches Not Authorized by Statute. Branch Banks,
Not Authorized by Statute.**

There is no authority of statute whereby a domestic bank can legally organize a branch bank in this state.

Helena, Mont., December 2, 1909.

Hon. H. H. Pigott,
State Examiner,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of December 1, requesting an opinion upon the following proposition:

“Will you please advise me whether, in your opinion, a bank organized under the laws of this state is restricted to do business in one place only, or is it authorized under our statutes to operate through branch banks. In other words, is there any prohibition

against the operation of branch banks by banks organized under our statutes?

"In the particular instance under consideration, the bank has inserted in its articles of incorporation a provision for the operation of branch banks in connection with its regular business."

We have no law in this state authorizing branch domestic banks or providing any procedure for their management and control.

There is a statute (section 3977, et seq., revised codes) providing for the organization, management and control of branch foreign banking corporations, but in the absence of a similar statute authorizing and defining how a branch domestic bank may be organized, I am of the opinion that a domestic branch bank cannot be legally organized in this state.

The law gives no person or officer authority to authorize such a branch bank, fixes no amount that must be kept in such a bank as capital stock, fixes no reserve fund and makes no provision for reports by, and examination of, such branch banks, as is done in the case of foreign branch banks.

Therefore, under the law as it now exists there is no provision or means by which a domestic bank, with several branch banks doing business in its name, could be checked up and properly examined, to say nothing of the examination of the several branch banks themselves.

It is the policy of the law to throw all the safeguards possible around funds deposited in banks; hence, the provisions requiring at least a capital stock of \$20,000, limiting loans to officers of a bank to ten per cent of the capital stock, and to others to twenty per cent, and fixing the per cent of deposits they must keep on hand.

If a bank is incorporated under the laws of this state and then opens up several branch banks under the same name, it would be impossible for the bank examiner to determine from an examination of the books of any of these banks whether it was complying with the law or not. It was not the intention of our law that any such possible condition should be permitted to exist.

Furthermore, incorporated banks are the creature of the law, and must look to such law for their power and authority, and they cannot insert in their articles of incorporation provisions giving them any greater power or authority than is authorized by law.

Section 3909 defines how a bank can be incorporated in this state, and section 3910 prohibits it from using the name of any other incorporated bank in the state. Section 215 fixes the fees of the state examiner for examining each bank, which is based upon the capital stock of such bank.

All of such sections, and many others, indicate that each bank organized under the laws of this state must be a separate corporation with a capital stock and complete in itself.

Therefore, in our opinion, any domestic bank attempting to do a banking business under a corporate name without being duly incorporated, or which uses the corporate name of some other banking cor-

poration, either with or without the word "branch" affixed thereto, would constitute a violation of section 3910, revised codes, and the persons so violating said law could be prosecuted under section 4014, revised codes.

If a bank desires to have a branch connection it must, therefore, incorporate it under a different corporate name from the parent bank, with a capital stock and officers, as required by law, and in every way comply with the law relating to the organization, management and examination of independent banking corporations incorporated under the laws of this state.

Very truly yours,

ALBERT J. GALEN,

Attorney General.