

Banks—Corporate Existence Of.

The charter of a bank incorporated under the laws in effect in 1899 could provide for a corporate existence of not to exceed forty years.

June 3, 1919.

Hon. H. S. Magraw,
Superintendent of Banks,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of May 20th, in which you submit to me for my opinion the following proposition:

“In 1899 the State Bank of Dillon was incorporated, and its Articles of Agreement provide that its charter shall run for thirty years.

“To the best of my knowledge, this is the only bank having a charter running for more than twenty years, and was incorporated prior to the passage of the new Banking laws in 1915.

“Will you please advise if this could be done at that time? An early reply would be appreciated, for if it is not legal for them to run for thirty years, their charter will expire early in June, and they have asked me for an opinion.”

The provisions of our law in effect in 1899, relating to banks and banking and particularly to their term of existence, and under which the State Bank of Dillon was organized, provides:

Section 392 of the Civil Code of 1895 provides:

“Private corporations may be formed by the voluntary association of any three or more persons in the manner prescribed in this Article.”

Section 393 of the Civil Code of 1895 provides, as far as material here, as follows:

“The purpose for which the private corporations mentioned in the last section are:

14. The transaction of any banking business or trust deposit and security business * * *”

Section 411 of the Civil Code of 1895 provides in part:

“At any time hereafter, any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing * * * or of carrying on any other branch of business designed to aid in the industrial or productive interests of the country and the development thereof, or of one or more of the aforesaid branches of business, may make, sign and acknowledge before some officer competent to take acknowledgments of deeds, and file in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the secretary of the state, a certificate in writing, in which shall be stated the corporate name of said company and the object or objects for which the company shall be formed, the amount of the capital stock of said company, the term of its existence, not exceeding forty years, * * *”

Banks organized and incorporated under the provisions of our law in effect in 1899 would, in my opinion, come within the provisions of Section 411, above quoted.

You are therefore advised that the State Bank of Dillon could, at the time of its incorporation, legally provide for its corporate existence for a period of thirty years.

Respectfully,
S. C. FORD,
Attorney General.