

Banks and Banking—Notes—Corporations.

The issuance of treasury notes and the receipt of money therefor constitute banking as defined by statute.

A. J. Lochrie, Esq.,
Superintendent of Banks,
Helena, Montana.

December 18, 1928.

My dear Mr. Lochrie:

Your letter enclosing a copy of the treasury note of Ole Midthaug was received. This note is in the following form:

“Ole Midthaug’s Treasury Note.

“Joplin, Mont., Nov. 12, 1928.

“This note is payable on demand at any time at my store in Joplin, Montana, (if short of currency in the store, the right is reserved of employing the lawful three days’ grace for shipping in of currency from Great Falls, Montana). This note is always secured by County Warrants, of equal amount—one-half of which are carried in my safe and one-half in a Great Falls bank.

“On Demand, I Promise to Pay to Order of.....
....., \$830.00
Eight Hundred Thirty Dollars * * * * *
for value received with interest at four (4) per cent per annum for every full three months from date hereof.

“If unable to get currency here in three days, (Signed).....
merchandise to double the amount of the note can be secured from my”

You desire to know whether this constitutes the doing of a banking business contrary to the provisions of Section 2 of Chapter 89, Laws of 1927.

Section 2, after defining the word “bank”, contains this clause:

“The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, shall be deemed to be doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt.”

And it further provides:

“It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.”

It seems to me clear that the issuance of the treasury note in the form above, and the acceptance of money in consideration of the issuance thereof, clearly falls within the provisions of the above statute and are prohibited except by means of a corporation duly organized for such purpose.

Very truly yours,
L. A. FOOT,
Attorney General.