

Opinion No. 290**Banks and Banking—National Banks—
Consolidation of National Banks,
Consent Necessary—Superin-
tendent of Banks.**

HELD: National Banks must obtain consent of the Superintendent of Banks to consolidate and maintain offices.

July 17, 1933.

You have requested my opinion on the following: "I write to inquire of you whether or not it is necessary for a national banking association to obtain the approval of this office to establish and operate offices in locations of consolidated banks within this state."

Section 94 as amended by Chapter 108, Laws of 1931, provides for the consolidation of banks and Chapter 129, Laws of 1931, section 1 provides for the consolidation of banks, and operation of offices as follows: "When any two or more banks located in the same county or in adjoining counties shall consolidate in accordance with the provisions of Section 94 of Chapter 89, Laws of 1927, as amended, the consolidated bank may, if it has a paid-up capital of Seventy-five Thousand Dollars (\$75,000.00) or more, **upon the written consent of the Superintendent of Banks and under rules and regulations promulgated by him**, maintain and operate offices in the locations of the consolidating banks."

It will be observed that the consolidation of state banks under the quoted section requires the express approval of the Superintendent of Banks. Your question, as I interpret it, is whether national banks have any greater rights or privileges. Paragraph (c) of Section 5155, United States Revised Statutes (U. S. C. A., Title 12, Section 36), as amended by Section 23 of the Banking Act of 1933, Public No. 66, 73rd Congress, known as the Glass-Steagall Bill, provides as follows:

“(c) A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, **if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question;** and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and **subject to the restrictions as to location imposed** by the law of the State on State Banks.—”

In view of the language used by the 73rd Congress, particularly the part in heavy type, it is my opinion that Congress did not intend to give national banks any greater privilege than state banks; that national banks would be subject to the same restrictions as state banks in regard to location and that the written consent of the Superintendent of Banks in Montana would be necessary for such consolidation and to maintain and operate offices by a national bank.