

Opinion No. 14-1155

February 4, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico.

BANKS.

Capital stock of a bank must be fully paid up in cash within one year.

OPINION

{*7} I have by reference from your office a letter of Mr. W. H. Morris, President of The Morris State Bank of Gallup, New Mexico, in which he inquires whether, in case the capital stock of his bank is increased, fifty per cent of such increase could be paid into the treasury of such bank in cash at the time of such increase, and the balance within one year thereafter.

This institution is, as I understand, a bank of discount and deposit {*8} organized under the provisions of Section 244, Compiled Laws of 1897, which provides that no bank of discount and deposit shall transact any business until at least fifty per cent of its capital stock shall have been paid into the treasury of such bank in cash, nor shall said bank continue to transact business beyond the period of one year unless the capital stock shall have been fully paid up in cash. It is the opinion of this office, as well as that of the State Bank Examiner, that the payment in cash of only fifty per cent of the capital stock applies to the amount paid in at the time of the organization of the bank, and that any increase in the capital stock, as provided by Sections 30 and 31 of the general incorporation act of 1905, must be fully paid up in cash. This opinion is supported by the language of Section 244 hereinbefore referred to that such a bank shall not "continue to transact business beyond the period of one year, unless the capital stock of such bank shall have been fully paid up in cash."

I return to you herewith the letter of Mr. Morris.