

Opinion No. [29-03]

March 1, 1929

TO: Office of the Attorney General of New Mexico

BANKS -- Mercantile companies doing banking business not required to set aside entire capital for banking business exclusively.

OPINION

I have your favor of the 28th ultimo, which reads as follows:

"Will you kindly advise me if sections 456 and 457 of the 1915 Code should be construed to mean that the entire capital stock required, i. e. Thirty Thousand Dollars, should be set aside for conducting a banking business exclusively or can it be used in conjunction with the operation of the mercantile business?"

In reply to your question will state that the provisions of sections 456 and 457, quoted by you, are fairly plain, according to my point of view, and I do not see how any one can read into them a construction such as that intimated by your letter quoted above, namely that the entire capital stock, i. e. Thirty Thousand Dollars of such mercantile establishment should be set aside for conducting a banking business exclusively.

I wrote you before when you requested an opinion of me relative to these mercantile companies doing banking business that I believe that the Legislature intended by these statutes to effect a convenient way of doing banking business for people living out in rural communities far removed from where banks are located.

I certainly do **not** believe that the Legislature intended that any mercantile establishment doing business should set aside its entire capital stock, in the amount specified in the statute to-wit Thirty Thousand Dollars, for banking business alone.