

Opinion No. 33-553

January 18, 1933

BY: E. K. NEUMANN, Attorney General

TO: Hon. John Bingham, State Bank Examiner, Santa Fe, New Mexico.

{*24} This has reference to the matters mentioned in the letter of J. W. {*25} Rodes, addressed to you, under date of January 16, 1933.

As I understand, he represents a mercantile company organized under the provisions of Section 13-901, 1929 Code. This company has a capital of \$ 30,000.00 of which \$ 25,000.00 has been allocated to the banking department. He wishes to know if the twenty per cent surplus mentioned in Section 13-108 should be computed on the \$ 30,000.00 capital, or on the \$ 25,000.00 capital allocated to the banking department.

Section 13-109, 1929 Code provides that all corporations engaging in business a portion only of which is banking shall, with respect to said banking business or **banking department**, be subject to all of the provisions of this act. It is, therefore, my opinion that the twenty per cent surplus should be computed on \$ 25,000.00 in the case mentioned by Mr. Rodes.

By: QUINCY D. ADAMS,

Asst. Attorney General