

**Banks and Banking—Capital Stock—Reduction of Capital Stock.**

A bank organized before the taking effect of chapter 73, laws of 1925, may not reduce its capital stock below the minimum fixed by that chapter.

L. Q. Skelton, Esq.,

March 30, 1925.

Superintendent of Banks,  
Helena, Montana.

My dear Mr. Skelton:

You have requested my opinion as to whether a banking corporation organized prior to the passage and approval of chapter 73, laws of 1925, may, after its passage and approval, reduce its capital stock below the minimum fixed by said bill.

Chapter 73 amends section 6023, R. C. M. 1921, and, among other amendments, fixes the minimum capital stock of a commercial bank at \$25,000. Prior to the amendment the minimum was \$20,000.

By section 2, article XV, of the constitution of the state of Montana, it is provided:

"No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the state; but the legislative assembly shall provide by general law for the organization of corporations hereafter to be created, *provided, that any such laws shall be subject to future repeal or alteration by the legislative assembly.*"

Obviously, under this constitutional provision the legislature has the right to amend the laws affecting a corporation without such legislation being open to the objection that it impairs the obligations of a contract.

Allen vs. Ajax Mining Co., 30 Mont. 490;

Somerville vs. St. Louis M. & M. Co., 46 Mont. 268;

Lewis vs. N. P. Ry. Co., 36 Mont. 207.

Section 6030, R. C. M. 1921, provides:

"Any bank now organized and existing and which may hereafter be organized, may increase or diminish its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for its purposes within the limits prescribed by this act."

It is, therefore, my opinion that a corporation organized prior to the taking effect of chapter 73, laws of 1925, may not reduce its capital stock below the minimum fixed by it. I observe, however, that chapter 73 does not state when it is to take effect, and consequently, under section 90, R. C. M. 1921, it will not take effect until July 1st, 1925.

Very truly yours,

L. A. FOOT,

Attorney General.