

Opinion No. 223.**Banks and Banking—Directors, Qualifications of—Shares, Defined.**

HELD: Any stockholder, owning in his own right shares of stock in a bank, either common or preferred, in the amount specified by statute, is eligible for election as director of a bank.

January 9, 1936.

Hon. Frank H. Johnson
Superintendent of Banks
The Capitol

You have submitted the following:

"Under Sections 10 and 11 of the Bank Law, it provides that a director must own in his own right shares of stock to the par value of at least \$1,000. Such stock shall not be hypothecated nor pledged. We are being asked if a director can qualify holding only preferred stock and not owning any common stock. The annual meeting of Montana State Banks will be held on January 14, and they are asking for this information in connection with this meeting date."

As the law now stands (Sections 10 and 11, Chapter 89, Laws of 1927), a stockholder in a bank is eligible for election as director of the bank if he owns "in his own right shares of the par value of at least \$1,000." It will be noted that the word "shares" is not qualified. It is true that when this law was enacted, Section 8 Id., provided: "No bank shall have preferred stock." Chapter 15, Laws of 1933-34, however, expressly authorized the issuance of preferred stock by banks. Since Sections 10 and 11, supra, were not amended and no limitation was placed upon the word "shares," and since no ineligibility is attached by statute to the holding of preferred stock, I am of the opinion that any stockholder,

owning in his own right shares of stock in a bank, either common or preferred, in the amount specified by statute, is eligible for election as director of a bank.