

**Opinion No. 81.****Banks and Banking—Articles of Incorporation, Amendment of—Stockholders, Notice of Meeting.**

HELD: 1. Under Chapter 15, Laws of Extraordinary Session, 1933-34, thirty days' notice of meeting of stockholders of a bank, published or mailed according to the manner set out in Sec. 17, Chapter 89, Laws of 1927, is sufficient where the purpose of the meeting is to authorize the amendment of the Articles of Incorporation to authorize the issuance of preferred stock.

2. If the Articles of Incorporation of a bank are to be amended to authorize either an increase or decrease in common capital stock, then the six weeks' notice required by Sec. 17, Chapter 89, Laws of 1927, is necessary.

---

April 18, 1935.

Hon. Frank H. Johnson  
State Examiner  
The Capitol

You have submitted the following:

"Chapter 15 of the Extraordinary Session Laws of 1933 provides that a bank may issue preferred stock by amending their articles of incorporation at a meeting of stockholders \* \* \* held after thirty days' notice stating the purpose and the time and place of holding such meeting, either mailed or published in the manner provided in Section 17 of Chapter 89 of the Laws of Montana \* \* \* .'  
If the common stock of the bank remains unchanged the issuance of preferred stock naturally increases the outstanding capital stock of the bank. Therefore, does the requirement of six weeks' notice to increase the capital stock of the bank as outlined in Section 17 of Chapter 89 apply, or is thirty days' notice according to Chapter 15 of the Extraordinary Session sufficient to increase the capital stock by the issuance of preferred stock?

"If the common capital stock in the bank is to be either increased or decreased at the time the articles of incorporation are amended to author-

ize the issuance of preferred stock does it require six weeks' notice as provided by Section 17, Chapter 89, or is a thirty-day notice as provided in Chapter 15 of the 1933 Extraordinary Session sufficient?"

Answering the question contained in the first paragraph of your letter, above quoted, it is my opinion that thirty days' notice as provided by Chapter 15, Laws of 1933-34, Extraordinary Session, is sufficient, if published or mailed according to the manner set out in Section 17, Chapter 89, Laws of 1927. The evident purpose of said Chapter 15 was to shorten the time in the case of issuance of non-assessable preferred stock to thirty days, the minimum requirement under Section 10, Article XV of the Montana Constitution. Said Section 17, Chapter 89, may be considered as having been amended to that extent.

Chapter 15 provides the one exception in the increase of the capital stock of a bank and that exception is when the capital stock is increased by the issuance of preferred stock. If, therefore, the articles of incorporation are amended to authorize either an increase or a decrease in the common capital stock, the six weeks' notice required by said Section 17, Chapter 89, is necessary.