

Opinion No. 161.

**Corporate Existence, Reviving, Re-
newing or Extending the term of—
Stockholders—Certificates.**

Held: Chapter 127, Laws of 1943,
is not merely curative in nature
but is an additional method of
reviving, renewing, or extending
the term of corporate existence
of corporations falling within the
provisions thereof.

January 12, 1944.

Mr. Sam W. Mitchell
Secretary of State
State Capitol
Helena, Montana

Dear Mr. Mitchell:

You have requested an opinion of
this office inquiring whether the pro-

visions of Chapter 127, Laws of 1943, are purely curative or whether corporations that had not prior to the passage of the bill filed the certificate as therein provided and secured a certificate of extension of corporate existence, may do so now.

The general tenor of this chapter would lead one to believe that it is purely curative in nature, and that the purpose of the act was merely to cure defects as to time of filing certificates for extension of term of corporate existence, or corporations which at the time of the passage of the bill had filed such certificate. However, there are various insertions and omissions, which give force to the contention that it might apply to any corporation where the corporate existence has expired and has not heretofore been extended by the directors passing a resolution for such extension and making a statement that the corporation has at all times since its expiration operated as a corporation. These insertions and omissions are as follows:

1. In the title to the act it is stated in part as follows:

"Provided a Certificate or Other Document Disclosing Such Stockholders' Action and Disclosing the Intention of Stockholders to Continue or Consent to an Extended Term of Corporate Existence Has been or Is Filed as Required Hereby." (Emphasis mine.)

The use of the word "Is" as above underlined, seems to contemplate that such filing may be made in the future, particularly due to the fact that the said word "Is" followed the words "Has been."

2. Section 1 of said act provides in part as follows:

"Whenever any private corporation formed under and by virtue of a compliance with the laws of the territory of Montana or the State of Montana, has by and through its proper officers, called, noticed, and held a regular or special meeting of the stockholders . . ." (Emphasis mine.)

It seems that if the framers of this act had wished it to be construed as strictly curative they should have in-

serted the word "heretofore" after the word "has" above underlined.

3. Section 5 of the act provides as follows:

"This act is not intended to repeal, amend or affect any existing law, but shall be in addition to any other method or methods of renewing, or extending the term of corporate existence."

The addition of this Section 5 can be given no meaning at all, unless it is construed to mean that the manner herein provided shall be open to use in the future as well as to cure acts of the past.

It is true that the general wording of the statute, being generally in the past tense; gives the impression it is purely curative in nature, but upon close scrutiny of the parts above pointed out, one is constrained to hold that even if it were not the intent of the framers the act should be open to future compliance and that by inadvertence and mistake in drawing the act it must be so construed. It is the general rule of law in construing a statute that every word thereof must be given a meaning if at all possible. To do so in this instance necessitates the holding that this act is not merely curative. As our Supreme Court has stated many times, we must take the law as we find it.

Therefore, it is my opinion that Chapter 127, Laws of 1943, created an additional method of reviving, renewing or extending the term of corporate existence, and any corporation that has actually continued in business since the expiration of its corporate life, under its articles of incorporation, may take advantage of the act.

Sincerely yours,
R. V. BOTTOMLY
Attorney General