

**Opinion No. 61****Banks—Holidays—Election by Banks to Remain Closed on Saturdays—  
Effective Period of Election to Remain Closed on Saturday**

- Held:** 1. Whenever any holiday recognized by Section 19-107, RCM, 1947, falls upon a Sunday, the Monday following is a holiday.
2. There is no limitation upon the duration or effectiveness of an election by a bank to remain closed on Saturday, and such an election to remain closed shall be in continuous effect until such time as the bank shall take further action to remain open on Saturday.

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July 1, 1958

Mr. R. E. Towle  
Superintendent of Banks  
Helena, Montana

Dear Mr. Towle:

You have requested my opinion on two questions which have arisen in connection with Section 19-107, RCM, 1947, (as amended by Ch. 209, L. 1955) relating to legal holidays for banking institutions.

Section 19-107, *supra*, provides:

"Legal Holidays and Business Days Defined. The following are legal holidays in the State of Montana, to-wit: Every Sunday; the first day of January (New Year's Day); the twelfth day of February (Lincoln's Birthday); the twenty-second day of February (Washington's Birthday); the thirtieth day of May (Memorial Day); the fourth day of July (Independence Day); the first Monday of September (Labor Day); the twelfth day of October (Columbus

Day); the eleventh day of November (Veteran's Day); the twenty-fifth day of December (Christmas Day); every day on which a general election is held throughout the state and every day appointed by the president of the United States or by the governor of this state for a public fast, thanksgiving or holiday. If any of the holidays herein enumerated (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days than those herein mentioned are to be deemed business days for all purposes, except as herein provided.

"Whenever any bank in the State of Montana elects to remain closed and refrains from the transaction of business on Saturdays, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank during the year of such election are hereby limited to the following holidays, and no other holidays, viz: Every Sunday; the first day of January (New Year's Day); the thirtieth day of May (Memorial Day); the fourth day of July (Independence Day); the first Monday of September (Labor Day); the twenty-fifth day of December (Christmas Day); and every day upon which a general election is held throughout the State of Montana and every day appointed by the president of the United States of America or by the governor of the State of Montana for a public fast, thanksgiving or holiday; provided however, that any bank practicing Saturday closing in compliance with law may remain closed and refrain from the transaction of business on Saturdays, notwithstanding that a Saturday may coincide with a legal holiday other than one of the holidays designated above for banks practicing Saturday closing in compliance with law."

Your first question asks whether the following Monday is a holiday when one of the prescribed holidays falls upon a Sunday. The language of the above quoted statute is clear in this regard. As is provided by Section 19-107, supra:

**"If any of the holidays herein enumerated** (except Sunday) fall upon a Sunday, the Monday following is a holiday." (Emphasis supplied)

Both those holidays of the State of Montana and holidays for banks electing to remain closed on Saturday are enumerated in Section 19-107, supra. There is nothing to indicate that any of the bank holidays are excepted from this general provision and so, such an inference cannot be made. State ex rel. Palagi v. Regan, 113 Mont. 343, 350, 126 Pac. (2d) 818; Foreman v. Beaverhead County, 117 Mont. 557, 561, 161 Pac. (2d) 524. Such being the case, the above quoted provision, in my opinion applies to bank holidays as well as holidays of the State of Montana.

Your second inquiry relates to the election by a bank to conform to the Saturday closing law (Ch. 124, L. 1955, codified as Secs. 5-1055

through 5-1057, RCM, 1947), and the question whether the bank must renew its election to remain closed every year. The question arises because of the presence of the following language in Section 19-107, *supra*:

"Whenever any bank in the State of Montana elects to remain closed and refrains from the transaction of business on Saturdays, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank **during the year of such election** are hereby limited to the following holidays, and no other holidays, viz: . . ." (Emphasis supplied)

At first glance it might appear that a bank would have to elect each year whether it was going to refrain from transacting business on Saturday. However, such is not the case. The law governing the election of the banks to remain closed on Saturday is not Section 19-107, RCM, 1947, but Sections 5-1055 through 5-1057, RCM, 1947. Section 19-107, *supra*, has as its purpose the definition of legal holidays and business days for a bank which has elected to remain closed and refrain from transacting business on Saturday. The meaning of the phrase "during the year of such election" has reference not to just one year but any calendar year in which an election to remain closed on Saturday is in effect.

The authority for the bank's resolution to remain closed on Saturday is found in Section 5-1056, RCM, 1947, which provides in part as follows:

"Any bank, as herein defined, and any national bank or national banking association, and any federal reserve bank, may, **at any time enact or amend by-laws** to provide for \* \* \* closing on any Saturdays . . ." (Emphasis supplied)

The above quoted statute and its companion Section (Sec. 5-1055, RCM, 1947) are the authority for closing on Saturday. This authority directs that **at any time** the bank may make its election to remain closed. There is no limitation upon the duration or the effectiveness of such an election, and so we must presume that the election to remain closed is effective until such time as the bank elects again to remain open on Saturday. This interpretation is consistent with the language of Section 19-107, RCM, 1947, in all respects. To hold that it was necessary that a bank would have to renew its election to remain closed on Saturday each year would, in my opinion, be inserting into the statute something that the legislature did not intend. (See Sec. 93-401-15, RCM, 1947; *Siuru v. Sell*, 108 Mont. 438, 444, 91 Pac. (2d) 411; *In re Transportation of School Children*, 117 Mont. 618, 622, 161 Pac. (2d) 901.)

It is my opinion, therefore, that:

1. Whenever any holiday recognized by Section 19-107, RCM, 1947, falls upon a Sunday, the Monday following is a holiday.

2. There is no limitation upon the duration or effectiveness of an election by a bank to remain closed on Saturday, and such an election to remain closed shall be in continuous effect until such time as the bank shall take further action to remain open on Saturday.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General