

Opinion No. 33-654

September 23, 1933

BY: E. K. NEUMANN, Attorney General

TO: Hon. John Bingham, State Bank Examiner, Santa Fe, New Mexico.

{*78} Under date of September 14th, we advised you by letter that there were no legal or statutory provisions authorizing the issuance of preferred stock by state banks in the State of New Mexico.

We have again given consideration to this question and desire to revise the said letter in the following particulars.

Under the State Banking Act, we note that Section 13-156 of the New Mexico Statutes, Annotated, 1929 Compilation reads as follows:

"Corporate status of Banks. Except as herein limited incorporated banks shall exercise and enjoy all the rights and privileges and be subject to all the liabilities and restrictions provided by law for corporations in general."

There being no limitation against the issuance of banks of preferred stocks, as we stated in the letter to which we have referred, it is our opinion that, under the Section just quoted, banks will in this respect assume the status of other corporations in general and may therefore issue preferred stock.

By: FRANK H. PATTON,

Asst. Attorney General