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COMPILED BY

SAMUEL A. WELLDON
Of the New York Bar

Presented by Mr. ALDRICH, from the Monetary Commission

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INTRODUCTORY.

This digest of banking laws, covering the forty-six States, the District of Columbia, and the Territories of Arizona and New Mexico, is a digest only of statutes. Doubts as to the application or interpretation of statutes might in a few instances be resolved by investigating decided cases, but the greater volume of a digest including such material, and the infinitely greater labor required to prepare it, forbade any excursion into the decisions. It is true also that whereas the language of a statute may be safely condensed, briefly stating the point of law adjudicated in a particular case is a hazardous business.

Another matter which must be borne in mind in reading the digest is that the volume of the legislation covered by it made condensation constantly a point of the greatest importance. The statutes of each State are, whenever possible, divided under the three heads, Banks, Savings banks, and Trust companies; sometimes when space may be saved by combining (under such heads as General Provisions, Banks and trust companies, Banks and savings banks, etc.) material which applies to more than one of the three classes, such an arrangement has been adopted. Under each of the heads, twelve subheads appear (I. Terms of incorporation—including capital, dividends, surplus, etc.; II. Liabilities and duties of stockholders and

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directors; III. Supervision, including reports and examinations; IV. Reserve requirements; V. Discount, Loan, and sometimes Deposit restrictions; VI. Investments; VII. Overdrafts; VIII. Branches; IX. Occupation of the same building; X. Unauthorized banking, Savings banking, or Trust company business; XI. Penalties; and XII. Depositors' Guaranty System); under these heads are given only the most important points in the statutes bearing upon the subject under consideration. So many minor provisions, therefore, are omitted, and the language of those which are inserted has been so abbreviated and popularized, that a lawyer investigating the statutes of a particular State to determine the course of conduct of a particular client engaged in banking might find the digest serviceable merely by way of finding his citations for him—the particular statute on which each statement in the digest is based being cited in parenthesis after the statement. The language of the digest, too, is made, so far as possible, simple and untechnical, since the purpose is to present an easily intelligible comparative statement of the statutes, not a legal text-book.

Since the digest is one of banking and not general corporation statutes, the general corporation laws of the particular States have been gone into only when they were peculiarly accessible or the banking statutes left blanks likely to be readily supplied. A digest of corporation legislation would, of course, be of much greater bulk than this. Provisions dealing with circulation have been uniformly omitted as being of no importance in the present state of the national banking laws.

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Among the abbreviations to which attention should be called lest they lead to misunderstanding is the use of the word "municipality," which occurs sometimes to save a list including perhaps "city, town, county, school district, or irrigation district," etc.; lists of investments are often shortened—"United States securities," for example, is sometimes employed to save such language as "stocks, bonds, public funds, and interest-bearing securities of the United States." Among the things omitted may be noted details of incorporation, what the certificate must recite, what notice must be given to other institutions in the neighborhood, whether the charter is lost if business is not begun within a specified time, etc.; proceedings to increase and reduce capital stock; details with respect to the deputies and subordinates of the state officials, and the power of state officials to subpœna, take oaths of witnesses at examinations, etc.; treatment of minors, married women, and trustees as depositors and stockholders; fees for examinations; details of the business trust companies may do as trustees, guardians, executors, administrators, sureties, etc.; details with respect to savings-bank pass books; notice required for withdrawal of savings deposits; proceedings for assessments against stockholders; bonds and oaths of officers; embezzlement and perjury with respect to banks, when these offenses seem not different from the same offenses with respect to other sorts of business; directors' objections, by which they avoid liability for illegally declared dividends; limits on the time during which a bank remains liable for payment of forged or

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raised checks; and the order of distribution of assets on dissolution.

The heading "XI. Penalties" is a catch-all for offenses and their punishment not treated under other heads. Penalties which entail the dissolution of the corporation and placing it in the hands of a receiver appear under III; and since the gist of the unauthorized banking provision is usually the punishment, that penalty is uniformly given under X. Where offenses—directors' borrowing, the making of false reports, etc.—are made misdemeanors merely, that provision of the statutes is noted under Penalties.

Wherever a reprint of statutes, collected by the banking department of the State, has been used as the basis for the digest of that State instead of the published statutes of the State themselves, that is noted in the introductory paragraph under the particular State. Many of these reprints have been compiled from confused sources and are of high value. The preliminary paragraph under each state also indicates the date to which the digest has been brought, usually through the 1909 legislative session of the State, if one was held. The material for each State has been sent to the supervisor of banking in that State, with a request for his suggestions. The following officials have been most courteous, and the digest has profited greatly by their correction and help: Mr. T. J. Rutledge, state bank examiner of Alabama; Mr. Wm. L. McGuire, secretary, board of bank commissioners of California; Mr. E. W. Pfeiffer, state bank commissioner of Colorado; Mr. Charles H. Noble, bank com-

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missioner of Connecticut; Mr. Charles H. Maull, commissioner, department of insurance and banking, Delaware; Mr. A. C. Croom, comptroller of Florida; Mr. J. P. Brown, state treasurer of Georgia; Mr. Wm. G. Cruse, bank commissioner of Idaho; Mr. J. S. McCullough, auditor of public accounts of Illinois; Mr. J. C. Billheimer, auditor of Indiana; Mr. John L. Bleakly, auditor of Iowa; Mr. William S. Albright, assistant bank commissioner of Kansas; Mr. Ben L. Bruner, secretary of state of Kentucky; Mr. W. L. Young, bank examiner of Louisiana; Mr. William B. Skelton, bank commissioner of Maine; Mr. Murray Vandiver, treasurer of Maryland; Mr. Charles L. Burrill, secretary to the bank commissioner of Massachusetts; Mr. H. M. Zimmermann, commissioner of banking of Michigan; Mr. A. Schaefer, public examiner of Minnesota; Mr. E. J. Smith, auditor of Mississippi; Mr. F. H. Ray, state examiner of Montana; Mr. E. Royse, secretary of state banking board, Nebraska; Governor D. S. Dickerson, chairman, and Mr. M. M. Van Fleet, bank examiner and secretary, state banking board of Nevada; Mr. Richard M. Scammon, bank commissioner of New Hampshire; Messrs. D. O. Watkins and Vivian M. Lewis, commissioners of banking of New Jersey; Mr. C. V. Safford, traveling auditor of New Mexico, and Mr. A. L. Morrison, jr., chief clerk; Mr. Clark Williams, superintendent of banks, and Mr. George I. Skinner, first deputy superintendent of banks, of New York; Mr. H. C. Brown, clerk of the corporation commission of North Carolina; Mr. B. B. Seymour, superintendent of banks of Ohio; Mr. A. M. Young, commissioner of banking of Oklahoma; Mr. James Steel, state bank ex-

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aminer of Oregon; Mr. John W. Morrison, deputy commissioner of banking of Pennsylvania; Mr. William P. Goodwin, bank commissioner of Rhode Island; Mr. Giles L. Wilson, state bank examiner of South Carolina, and State Senator T. G. Croft, of the same State; Mr. John L. Jones, public examiner of South Dakota; Mr. Hallum W. Goodloe, secretary of state of Tennessee; Mr. Thos. B. Love, commissioner of banking of Texas, and Mr. Charles V. Johnson, chief clerk; Mr. C. S. Tingey, secretary of state of Utah; Mr. F. C. Williams, bank commissioner of Vermont; Mr. Robert R. Prentis, chairman, and Mr. Richard T. Wilson, clerk, of the state corporation commission of Virginia; Mr. S. V. Matthews, commissioner of banking of West Virginia; Mr. M. C. Bergh, commissioner of banking of Wisconsin; and Mr. Harry B. Henderson, state examiner of Wyoming.

Readers may think the system of references in the digest is lacking in uniformity. It must be remembered, however, that the condition of the statutes of the different States—the frequency of revision, system of chapters and sections, etc.—is lacking in uniformity also, and, what has been even more important in arranging the system of references in parenthesis, it was necessary that the references should occupy no more space than necessary. If a glance is taken in each State at the brief introductory paragraph, a hint will be found there which will make the references in parenthesis intelligible.

There follows a tabular summary of the digest. What has been done is to state in such form as to make them readily accessible, the few provisions which are law in

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enough States to make it worth while showing in how many. The value of even this much summarizing is problematical, for it has been necessary to consider as one, provisions which differ in different States; the limit of individual liability to a bank, for example, may in one State be a per cent of capital, in another a per cent of capital and surplus, and in a third a per cent of capital, surplus, and undivided profits. The tables may, however, serve to show to what extent these most common provisions are dealt with in some form or other by the various States. But the reader is cautioned against relying on the tables without reference to the digest itself, except when he is in search of information of a general sort; when a page of statute has been reduced to a paragraph or a sentence of digest, and the paragraph or the sentence has been reduced to a word or two in the table, the result is a hint, necessarily often an inaccurate one.

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		Alabama.	Arizona.	Arkansas.[a]	California.	Colorado.	Connecticut.	Delaware.	District of Columbia.[i]	Florida.	Georgia.	Idaho.	Illinois.
1	Minimum capital[d]	$15,000 to $25,000			$25,000	$10,000 to $30,000				$15,000 to $50,000	$25,000	Property worth $10,000 to $100,000.	$25,000 to $200,000
2	Per cent paid in when business begun	All			All	50 per cent				50 per cent	20 per cent; not less than $15,000.	50 per cent	All
3	When remainder must be paid					1 year				5 months		5 months	
4	Surplus: Per cent of net profits to be deducted				10 per cent					10 per cent		10 per cent	
5	Until what per cent of capital				25 per cent					20 per cent		20 per cent	
6	Double liability of stockholders	No			See page 63	Yes	No			Yes	Yes	Yes	Yes
7	Directors: How many					Not more than nine				At least five	Three to fifteen	At least five	
8	Directors: Qualifications				Hold $500 of stock		Three-fourths must be residents of Connecticut.			All citizens of United States; three-fifths residents of Florida; each holder of 10 shares of stock.	Hold 1 share of stock	Hold $500 of stock	Hold 10 shares of stock.
9	Directors: Must examine, how often				Annually						Semiannually		
10	Special banking supervisor, if any	An examiner only			Superintendent of banks.	State bank commissioner.	Two bank commissioners.			An examiner only		Bank commissioner	Examiners only
11	Term of office of supervisor				4 years	4 years	4 years					4 years	
12	Supervisory duties assigned to another official	Yes; state treasurer	Yes; auditor of territory.					Yes; insurance commissioner.	Yes; Comptroller of the Currency (U.S.)	Yes; comptroller	Yes; state treasurer		Yes; state auditor
13	Supervisor reports to governor or legislature	Annually to governor.	Annually to governor and biennially to legislature.		Annually to governor.	Biennially to governor.	Annually to governor.				Annually to governor.	Annually to governor.	
14	Supervisor may sue for receiver	Yes	Yes		Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes
15	Supervisor may take possession in insolvency, etc		Yes		Yes	Yes		Yes			Yes		
16	Bank reports: How many a year[e]	Two	Three		Three	Three	Five	Two		Two	Four	Two	Four
17	Unclaimed deposits must be published				Biennially							Biennially	
18	Examinations: How many a year[e]	One or two	One		Two	Two	Two	At supervisor's discretion.	✓	One	Two	One	One
19	Minimum reserve:[d] What per cent of demand deposits	15 per cent						15 per cent and 10 per cent.			25 per cent	15 per cent	
20	Reserve:[d] What per cent of time deposits												
21	Reserve:[d] What per cent of all deposits		15 per cent		15 per cent or 20 per cent.		15 per cent			20 per cent			
22	Reserve:[d] What fraction must be in cash	Two-fifths	Two-fifths		Two-fifths		Four-fifteenths	One-third		Two-fifths		One-half	
23	Reserve:[d] What fraction may be in deposits	Three-fifths	Three-fifths		Three-fifths		Eleven-fifteenths	Two-thirds		Three-fifths	All	One-half	
24	Reserve: What fraction may be in securities						One-fifth			Three-fifths	All		
25	Individual borrower's liability limited to what per cent of capital.[f]	10 per cent			10 per cent, with exceptions (see page 70).	20 per cent	20 per cent				10 per cent unless amply secured.	25 per cent	30 per cent
26	Loans on the bank's own stock forbidden[g]		Yes		Yes	Yes	Yes			Yes		Yes	
27	Bank forbidden to purchase its own stock[g]		Yes		Yes					Yes	Yes	Yes	
28	Total loans or deposits restricted to what proportion to capital.												
29	Loans on real estate restricted				First liens only								
30	Real estate holdings limited[h]					Yes				Yes		Yes	Yes
31	Overdrafts forbidden				Only forbidden to officers.	Possibly allowed							
32	Branches		Apparently allowed		Permitted if capital is increased.	Prohibited	Prohibited	Allowed on increase of capital, etc.		Allowed	Allowed		
33	Depositors' guaranty system												

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[a] See page 60 for the impossibility of summarizing Arkansas.

[b] The equivalent of state bank statutes is, in Maine, under trust companies.

[c] There is no legislation on state banks in Vermont.

[d] Where more than one figure is given in answer to the question, it is generally because the statute provides different rules for
In reserves the difference is sometimes that between a reserve depositary and a bank not designated as one.

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TABLE A.—TABULAR SUMMARY OF STATE LEGISLATION GOVERNING COMMERCIAL BANKS.

Indiana.	Iowa.	Kansas.	Kentucky.	Louisiana.	Maine.[b]	Maryland.	Massachusetts.[j]	Michigan.	Minnesota.	Mississippi.	Missouri.	Montana.	Nebraska.	Nevada.	New Hampshire.
$25,000	$25,000 to $50,000	$10,000 to $50,000	$15,000 to $100,000	$10,000 to $100,000		$50,000 to $300,000; maximum, $500,000 to $2,000,000.	$100,000; maximum, $1,000,000.	$20,000 to $400,000	$10,000 to $25,000	$10,000 to $15,000	$10,000 to $100,000; maximum, $5,000,000.	$20,000	$10,000 to $200,000	$10,000 to $50,000	
50 per cent	All	All	50 per cent	50 per cent		$50,000 to $300,000	50 per cent	50 per cent	All	$10,000 to $15,000	50 per cent	All	Probably all	80 per cent	
6 months			1 year	90 days			1 year	5 months		5 months	1 year			2 years (see page 381)	
10 per cent		10 per cent	10 per cent	10 per cent				10 per cent	20 per cent		10 per cent	10 per cent	20 per cent	10 per cent	
25 per cent		50 per cent	20 per cent	20 per cent				20 per cent	20 per cent		20 per cent	20 per cent	20 per cent	20 per cent	
Yes	Yes	Yes	Yes	No		No		Yes	Yes		No	Yes	Yes	No	No
Three to nine	At least five	Five to thirteen		Seven to fifteen		Five to seven	Seven or nine to twelve.	At least five	At least three		Three to twenty-one	Not more than thirteen.	Three to fifteen	Three to thirteen	
Hold 5 shares of stock.	Hold from 2 to 5 shares.	Residents of the county; holders each of $500 of stock.		Citizens of United States, etc. (See page 207.)		Stockholders; citizens of Maryland.	Citizens of Massachusetts; holders of 5 shares, etc.	Hold 10 shares of stock.	Hold $300 to $500 of stock.		Residents of Missouri; each holder of 2 shares.	Citizens of United States; 3 residents of Montana; each holder of 10 shares.	Residents of local county; holders of specified amounts of stock, etc.	Majority residents of county; each holder of specified amount of stock, etc.	Hold 5 to 10 shares of stock.
	Quarterly by committee.	Quarterly						Semiannually by committee.	Semiannually by committee.	Quarterly	Annual examination by committee of stockholders.		Semiannually	Quarterly	Semiannually
Examiners only	Examiners only	Bank commissioner		State examiner of state banks.	Bank commissioner	Examiner merely	Bank commissioner	Commissioner of banking department.	Superintendent of banks.		Bank commissioner		Examiners only	State banking board (governor and four appointees).	Board of bank commissioners.
		4 years		4 years	3 years		3 years	4 years	3 years		4 years			2 years	3 years
Yes; state auditor	Yes; state auditor		Yes; secretary of state			Yes; state treasurer	To a certain extent; board of bank incorporation (bank comr., treasurer, receiver genl., and corporation comr.).			Yes; state auditor		Yes; state examiner	Yes; state banking board (governor, auditor, and attorney-general).		
Biennially to legislature.	Biennially to governor.	Biennially to governor.		Biennially to legislature.	Annually to governor	Biennially to legislature.	Annually to legislature.	Annually to governor.	Annually to governor		Annually to legislature.				Annually to secretary of state.
Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes
Yes	Yes	Yes					Yes	Yes	Yes		Yes	Yes	Yes	Yes	
Five	Four	Four	Four	Four		Five	See page 251	Four	Four	Four	Two	Four	Four	Four	Apparently seven
			Annually	Annually		Annually		Report to Commissioner every 3 years.							
At supervisor's discretion.	See page 171	Two		Two		One	One	Two	Two		One	One	Two	Two	One
				25 per cent			See page 253		20 per cent		15 per cent				
			Not more than 10 per cent.												
	10 per cent and 15 per cent.	20 per cent and 25 per cent.	15 per cent and 25 per cent.					15 per cent and 20 per cent.				15 per cent and 25 per cent.	15 per cent and 20 per cent.	15 per cent	
	One-fourth	One-fourth	One-third	Eight twenty-fifths				One-half	One-half				Two-fifths	One-third	
	Three-fourths	Three-fourths	Two-thirds	Seventeen twenty-fifths.				One-half	One-half		All	A portion at directors' discretion.	Three-fifths	Two-thirds	
	20 per cent; 50 per cent on mortgage.	15 per cent	30 per cent	20 per cent unless secured.				10 per cent and 20 per cent on mortgage, etc.	15 per cent and 20 per cent.		25 per cent	20 per cent	20 per cent	30 per cent	10 per cent
		Yes	Yes	Yes			Restricted	Yes	Yes		Yes		Yes	Yes	Yes
		Yes	Yes	Yes			Yes	Yes	Yes		Yes	Yes	Yes	Yes	
		Deposits, ten times					Loans, twice						Loans, eight times	Loans, eight times	
								Not over 50 per cent of capital, etc.	Land must be worth twice the loan.						
Yes		Yes	Yes	Yes		Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	
Restricted in case of directors, etc.		Indirectly		Apparently allowed				Allowed for 90 days			Apparently allowed		Apparently allowed	Apparently allowed	
				Allowed			Prohibited			Prohibited	Prohibited			Prohibited	
		Voluntary											Compulsory		

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banks in communities of different sizes.

[e] The reports and examinations here tabulated are only the regular reports to state officials and the regular examinations by state officials. The number given is usually the minimum per year; many States provide for special reports and examinations at the supervisor's discretion.

[f] The provisions restricting individual liability vary greatly, as will appear on reference to the body of the digest. The per cent is sometimes of capital, sometimes of paid-in capital, sometimes of capital and surplus, etc. Liability of an individual firm or corporation frequently includes the liability of members. Commonly liability is not considered increased by the discount of bills of exchange drawn in good faith against existing values nor by the discount of commercial paper actually owned by the person negotiating it. Where there are further exceptions (as in statutes which allow liability beyond the per cent named, if security is given), an effort is made in the table to suggest this.

New Jersey.	New Mexico.	New York.	North Carolina.	North Dakota.	Ohio.	Oklahoma.	Oregon.	Pennsylvania.	Rhode Island.	South Carolina.	South Dakota.	Tennessee.	Texas.
$50,000	$30,000	$25,000 to $100,000	$5,000 to $25,000	$10,000 to $50,000	$25,000	$10,000 to $100,000	$10,000 to $50,000	$25,000 to $50,000			$10,000 to $50,000		$10,000 to $100,000
All	50 per cent	All	50 per cent	50 per cent	50 per cent	All	50 per cent	50 per cent	All		All		All
	1 year		5 months	5 months	5 months		6 months	5 months					
10 per cent		10 per cent		10 per cent	10 per cent	10 per cent	10 per cent	10 per cent		10 per cent	10 per cent		10 per cent
20 per cent		20 per cent		20 per cent	20 per cent	50 per cent	20 per cent	25 per cent		20 per cent	20 per cent		50 per cent
	Probably yes	Yes	Yes	Yes	No	Yes		Yes		Yes	Yes	Voluntary	Yes
At least five	Not more than nine	At least five			Five to thirty	Three to thirteen	At least three	At least three			At least three	At least five	Five to twenty-five
Majority residents of New Jersey; each holds 5 shares.		Citizens of United States; three-fourths residents of New York; hold certain stock.		Two-thirds residents of North Dakota; each holder of 10 shares.	Three-fourths residents of Ohio; each holder of 5 shares.	Hold $500 of stock	Hold $500 of stock	Citizens of United States and Pennsylvania: each holder of 10 shares.	Hold $500 of stock	Hold 10 shares of stock.	Majority residents of South Dakota, etc.; each holder of 5 shares.		Must hold 5 to 10 shares, etc.
Semiannually by committee.		Semiannually		Semiannually	Annually by committee	Semiannually	Quarterly				Semiannually	Semiannually	
Commissioner of banking and insurance.	Traveling auditor and bank examiner.	Superintendent of banks.	Examiners only		Superintendent of banks	Bank commissioner	Bank examiner	Commissioner of banking.	Bank commissioner	Bank examiner	Banking department		Examiners only
3 years	2 years	3 years			4 years	4 years	4 years	4 years	3 years	4 years	4 years		
			Yes; corporation commission.	Yes; state examiner and banking board (governor, secretary of state, and attorney-general).			To a certain extent; board of commissioners (governor, secretary of state, and state treasurer).		To a certain extent; board of bank incorporation (commissioner, treasurer, and attorney-general).		Yes; state examiner	Yes; secretary of state and comptroller.	Yes; commissioner of agriculture, insurance, etc.
Annually to legislature.	Yes	Annually to legislature.			Annually to governor		Annually to commissioners.	Annually to governor	Annually to legislature.	To legislature through treasurer.	Biennially to governor.		Annually to legislature.
Yes	Yes		Yes	Yes	Yes		Yes	Yes	Yes			Yes	Yes
Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes		Yes		Yes
Four	Two	Four	Four	Five	Four	Four	Like national banks	Two	Five	Four	Five	Two (see page 624).	Two
	Annually	Annually					Biennially	Annually	Savings deposits every 5 years.				
At supervisor's discretion.	One	Two	One	One	Two	Two	One	At supervisor's discretion.	Two	One	Two	Four; but see page 625.	Four
15 per cent					6 per cent		15 per cent and 25 per cent.	15 per cent					25 per cent
					4 per cent		10 per cent	7½ per cent					
		25 per cent, 20 per cent, and 15 per cent.	15 per cent	20 per cent	15 per cent	20 per cent and 25 per cent.			15 per cent and 25 per cent.		20 per cent and 25 per cent.		
Two-fifths		Three-fifths, one-half, two-fifths.	Two-fifths	Two-fifths	6 per cent of demand deposits and 4 per cent of time deposits in cash; the rest deposited.	One-third	One-third	One-third of demand reserve.	Two-fifths				One-tenth
Three-fifths		Two-fifths, one-half, three-fifths.	Three-fifths	Three-fifths		Two-thirds	Two-thirds	All not held in cash or bonds.	Three-fifths		As directors determine.		Nine-tenths
								One-third of both demand and time reserve.					
10 per cent		25 per cent and 40 per cent (see page 463).	10 per cent	15 per cent	20 per cent, with exceptions.	20 per cent	25 per cent, with exceptions.		30 per cent	10 per cent, with exceptions.	25 per cent		25 per cent
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes		Yes
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes
						Deposits, ten times			Deposits, ten times		Deposits, fifteen times.		Deposits limited (see page 630).
		Restricted (see page 464).		First lien only, etc.	Restricted (see page 514).	First mortgages for not longer than 1 year, etc.		First liens on Pennsylvania land; limited in amount.		One-half capital and one-half deposits only may be so loaned.			Limited in total amount and value (see page 637).
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes
Forbidden to officers, directors, etc.		Apparently allowed		In effect forbidden	Apparently allowed	Forbidden to officers			Apparently allowed, except to officers, etc.		Allowed for 60 days		Apparently allowed
		Allowed in home city on increasing capital, etc.					Allowed if capital is increased.	Seem forbidden	Allowed			Apparently allowed.	Forbidden
						Compulsory					Voluntary		Compulsory

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[g] The limitations on a bank's holding its own stock, either as collateral or outright, is commonly subject to the proviso that the stock may be held if it is necessary to take it to prevent loss on a debt previously contracted on security thought adequate at the time. The statutes allowing stock to be thus taken usually require it to be sold within a certain time—six months, a year, etc.

[h] For typical limitations on real estate holding, see the provisions of the New Jersey statutes, on page 418, and of the New York statutes, on page 466.

[i] Other than the national banking act, there is no statute in force in the District of Columbia providing for the organization of commercial banks.

[j] The Massachusetts bank statutes here tabulated are obsolete; see page 246.

Utah.	Vermont.[c]	Virginia.	Washington.	West Virginia.	Wisconsin.	Wyoming.	
$10,000 to $100,000; maximum $1,000,000.		$10,000	Property worth $10,000 to $100,000.	$25,000; maximum, $500,000.	$10,000 to $50,000	$10,000 to $100,000	1
25 per cent			50 per cent	50 per cent	All	50 per cent	2
10 months			5 months	2½ years		6 months	3
			10 per cent	10 per cent	10 per cent		4
		5 per cent (see page 678)	20 per cent	20 per cent	20 per cent		5
Yes			Yes	Yes	Yes	Yes	6
		At least five	At least three		At least three	Five to nine	7
		Majority citizens of Virginia; each own $100 of stock.	Must hold 5 shares		Stockholders; majority residents of Wisconsin.	Citizens of United States; majority residents of Wyoming; owners of certain stock.	8
		Quarterly			Semiannually by committee of directors or stockholders.		9
An examiner only	Bank commissioner		State examiner	Commissioner of banking.	Commissioner of banking.		10
	2 years		4 years	4 years	5 years		11
Yes; secretary of state.		Yes; corporation commission.				Yes; state examiner	12
	Biennially to legislature.		Annually to governor	Annually to governor	Annually to governor	Annually to governor	13
Yes		Yes	Yes	Yes		Yes	14
			Yes	Yes	Yes	Yes	15
Four		One	Three	Four	Five	Four	16
			Biennially				17
One		One	One	One	One	One	18
15 per cent and 20 per cent.			20 per cent	15 per cent			19
							20
					15 per cent and 25 per cent.		21
				Two-fifths			22
All			All	Three-fifths	At directors' discretion.		23
							24
15 per cent				20 per cent	30 per cent, with exceptions.	20 per cent	25
			Yes	Yes		Yes	26
			Yes	Yes	Yes	Yes	27
							28
					Limited to 50 per cent of capital and deposits, with exceptions.		29
Yes		Yes	Yes		Yes	Yes	30
				Limited to 5 per cent of deposits.	Allowed for 90 days		31
			Allowed on increase of capital.		Forbidden		32
							33

No. 1*c*.

		Alabama.	Arizona.	Arkansas.[b]	California.	Colorado.	Connecticut.	Delaware.	District of Columbia.	Florida.	Georgia.	Idaho.	Illinois.
1	Savings banks legislated for separately	No	Yes.	No	Yes.	Yes.	Yes.	Practically, no.	Very briefly	Briefly	No	Very briefly	No
2	Savings banks subject to the same laws as commercial banks.	Yes.	In part		Except where legislated for separately.	To a certain extent (see page 83).		In a few respects		Almost entirely	Query	Yes.	Yes.
3	Mutual, not stock, corporations provided for		Apparently both		Both		Yes.						
4	If stock, what minimum capital[a]	$15,000 to $25,000			$25,000	$25,000				$20,000		$10,000 to $100,000	$25,000 to $200,000
5	Directors: How many					At least three				At least five		At least five	
6	Directors: Qualifications				In mutual, must be members and depositors.	Must be stockholders.				All citizens of United States; three-fifths residents of Florida; each holder of 10 shares of stock.		Hold $500 of stock	Hold 10 shares of stock.
7	Directors: Must examine periodically				Annually		Annually through auditors.						
8	Supervisor may sue for receiver	Yes.	Yes.		Yes.	Yes.	Yes.	Yes.	Yes.	Yes		Yes	Yes.
9	Supervisor may take possession in insolvency, etc		Yes.		Yes.	Yes.		Yes.	Yes.				
10	Bank reports: How many a year[d]	Two.	Three		Three	Three	One	Two	Five	Two		Two	Four.
11	Reports of unclaimed deposits must be published				Biennially		Annual report to comptroller.					Biennially	
12	Examinations: How many a year[d]	One or two	One		One	Two	Two	At supervisor's discretion.	At discretion of Comptroller of Currency.	Two		One	One
13	Minimum reserve:[a] What per cent of deposits	15 per cent of demand deposits.			4 per cent	20 per cent				20 per cent		15 per cent of demand liabilities.	
14	Reserve:[a] How composed	Three-fifths deposited, two-fifths cash.			Cash or its equivalent; one-half in currency.	Cash or deposits				Two-fifths cash; three-fifths deposits or bonds.		Half cash, half deposits.	
15	Maximum deposit allowed an individual						$1,000 annually			$3,000			
16	Loans on real estate restricted		50 per cent of all loans must be first liens on Arizona land, etc.		First liens only, etc.	First liens on land worth twice the loan.	First liens on Connecticut land, worth twice the loan.			First liens on Florida realty only, etc.		First liens on land worth twice the loan.	
17	Investments prescribed				Fully	Briefly	Fully			Fully		Yes	
18	Real estate holdings limited[f]		Yes.		Yes.	Yes.	Yes.					Yes	Yes

S. Doc. 353, 61–2. (To follow page 39.) No. 2a.

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TABLE B.—TABULAR SUMMARY OF STATE LEGISLATION GOVERNING SAVINGS BANKS.

[General note: In many states the statutes contemplate that savings bank business be done by commercial banks, not by institutions devoted exclusively to savings banking. In such cases the statutes app
banks are again tabulated here, although they may seem in certain respects inapplicable to savings business—as, for example, where reserves are required to be a percentage of demand deposi

Indiana.	Iowa.	Kansas.	Kentucky.	Louisiana.[c]	Maine.	Maryland.	Massachusetts.	Michigan.	Minnesota.	Mississippi.	Missouri.	Montana.	Nebraska.	Nevada.	New Hampshire.
Yes	Yes	Practically, no	No		Yes	Somewhat	Yes	A few provisions	Yes	Not mentioned in statutes.	Yes	Yes	A few provisions	Yes	Yes
	In part	Probably, yes	Yes			In part. (See page 236).		Yes	In some matters	Perhaps in some matters.	Only with respect to supervision, etc.	In part	Almost entirely	Almost entirely	In a very few respects.
Yes					Yes	Both	Yes		Yes						Both
	$10,000 to $50,000	$10,000 to $50,000	$15,000 to $100,000.			$50,000 to $300,000; maximum, $500,000 to $1,000,000.		$20,000 to $400,000		$10,000 to $15,000	$10,000 to $100,000; maximum, $5,000,000.	$100,000; maximum $500,000.	$15,000 to $75,000	$10,000 to $50,000	
	At least five	Five to thirteen			At least five	Five to seven	At least eleven	At least five	At least seven		Five to thirteen	Not more than thirteen.	Three to fifteen	Three to thirteen	
Must be approved by a judge.	Hold from 2 to 5 shares.	Residents of the county; each holder of $500 of stock.			Restrictions on office-holding in other banks.	Stockholders; citizens of Maryland.	See page 259	Hold 10 shares of stock.	Residents in the county, etc.		Stockholders; a majority citizens of Missouri.	Citizens of United States; three-fourths residents of Montana; each holder of 10 shares.	Hold 5 shares of stock, etc.	Majority residents of county; each holder of certain stock, etc.	Hold 5 to 10 shares of stock, etc.
Annually by committee.	Quarterly by committee.	Quarterly			Annually by committee of two.	Annually by committee of five.	Annually by committee.	Semiannually by committee.	Annually through an accountant.	Quarterly	Before each dividend is declared, etc.		Semiannually	Quarterly	Semiannually
Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes
	Yes	Yes					Yes	Yes	Yes		Yes	Yes	Yes	Yes	
One	Four	Four	Four		Two	Five	One	Four	One	Four	One	Four	Four	Four	Three
					Annually	Biennial report to comptroller.	Every 5 years.	Report to commissioner every three years.							Every five years.
Every other year	See page 171	Two			One	One	One	Two	Two		Every other year	One	Two	Two	One
Not more than 20 per cent.	8 per cent	20 per cent	10 per cent					15 per cent			15 per cent of total assets.	15 per cent and 25 per cent.	5 per cent	15 per cent	
Cash or deposits	One-fourth cash, three-fourths deposits.	One-half cash, one-half bonds.	One-third cash, two-thirds deposits.					One-third cash, two-thirds deposits.			In cash or deposits	In cash or deposits	In available funds	One-third, cash; two-thirds, deposits.	
$500 annually					$2,000		$2,000		$5,000		$4,000				
First lien on Indiana realty worth twice the loan.	First lien on Iowa land worth twice the loan.				First liens on Maine or New Hampshire realty, etc.		First liens only on Massachusetts realty, etc.	First liens on realty worth twice the loan.	First liens on Minnesota land, etc.		First liens on land worth twice the loan, etc.	First liens on land worth twice the loan.	First and in some cases, second liens, etc.	First, and in some cases, second liens, etc.	First liens, etc.
Yes	Very briefly				Elaborately		At great length	Fully	Fully		Fully	Very briefly	Briefly	Briefly	Elaborately
Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes		Yes	Yes			Yes

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[a] Where more than one figure is given in answer to the question, it is because the statute provides different rules for institutions in communities of different sizes. In reserves, the difference is sometimes t
depository and a bank not designated as one.

[b] See page 58 for the impossibility of summarizing Arkansas.

[c] The confused condition of the Louisiana statutes has made a summary of savings bank and trust company provisions seem unprofitable; see page 205 of the digest.

[d] The reports and examinations here tabulated are only the regular reports of state officials and the regular examinations of state officials. The number given is usually the minimum per year; manySta
reports and examinations at the discretion of the supervisor.

[e] See digest, page 530, for the difficulty in determining what statutes apply to savings banks in Oklahoma.

[f] For a typical limitation on real estate holding, see the provisions of the New Jersey statutes on page 426

No. 2b

plicable to commercial
ts.]

New Jersey.	New Mexico.	New York.	North Carolina.	North Dakota.	Ohio.	Oklahoma.[a]	Oregon.	Pennsylvania.	Rhode Island.	South Carolina.	South Dakota.	South Carolina.	South Dakota.	Tennessee.	Texas.
Yes	Yes	Yes	Practically, no	No	Yes	Practically, no	No	Yes	Yes	No	No	No	No	Practically, no	Yes
		In a few respects	Yes	Yes	In part	Query	Yes	With respect to supervision, etc.	Only with respect to supervision.	Probably, yes	Are departments c banks and trus companies.	Probably, yes	Are departments of banks and trust companies.		In part
Yes		Yes						Yes	Yes						
	$15,000 to $30,000		$5,000 to $25,000	$10,000 to $50,000	$25,000		$10,000 to $50,000								$10,000 to $50,000; maximum, $5,000,000.
Nine to fifteen	Not more than nine	At least thirteen			Five to thirty		At least three	At least thirteen	At least nine						Five to thirteen
Majority residents of county and freeholders in New Jersey, etc.		Residents of New York; financially responsible, etc.		Two-thirds residents of North Dakota; each holder of 10 shares.	Three-fourths residents of Ohio; each holder of 5 shares.		Hold $500 of stock	Residents of Pennsylvania, etc.		Hold 10 shares of stock.		Hold 10 shares of stock.			Stockholders; a majority citizens of Texas.
Annually by committee.		Semiannually by committee.		Semiannually	Annually by committee		Quarterly	Annually	Annually by committee.					By committee, before declaring dividends.	Before each dividend and annually by committee.
Yes	Yes		Yes	Yes	Yes		Yes	Yes	Yes						Yes
See page 422	Yes	Yes	Yes	Yes			Yes		Yes						Yes
One	Two	Two	Four	Five	Four	✓	Like national banks	Two	Two	Four		Four		Two	Three
Annually	Annually	Annual report to superintendent.					Biennially	Annually	Every five years.						
Every other year	One	Every other year	One	One	Two		One	At supervisor's discretion.	Two	One		One			Every other year
			5 per cent of all deposits.	20 per cent of all deposits.	15 per cent of all deposits.	20 per cent	15 and 25 per cent of demand, 10 per cent of time.	7½ per cent of time deposits.							15 per cent of total assets.
			Cash or deposits	Two-fifths cash, three-fifths deposits.	3 per cent of demand and and 2 per cent of time in cash; the same in securities; the rest deposited.	One-half cash, one-half securities.	One-third cash, two-thirds deposits.	Cash, deposits, and not more than one-third bonds.							Cash or deposits
$5,000		$3,000						$5,000							$4,000
First liens on New Jersey land worth twice loan, etc.	Restricted by value of the land mortgaged (see page 447).	First liens only, etc. (See page 475.)		First liens only, etc.	Restricted in total amount, etc.			First liens on Pennsylvania land; limited in amount.	First liens only, etc.	One-half capital and one-half deposits may be so loaned.		One-half capital and one-half deposits may be so loaned.			First liens on land worth twice the loan.
Fully	Practically, not	Elaborately	Practically, not	Practically, not	Yes		Practically, not	Briefly	Elaborately	Practically, not		Practically, not		Practically, not	Briefly
Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes		Yes			Yes

hat between a reserve

tes provide for special

Utah.	Vermont.	Virginia.	Washington.	West Virginia.	Wisconsin.	Wyoming.	
No	Yes	A few provisions	Practically, no	Yes	Yes	Yes	1
Yes		Yes	Yes	In part	Largely	In part	2
	Yes			Yes	Yes		3
$10,000 to $100,000; maximum, $1,000,000.		$10,000	Property worth $10,000 to $100,000.			$25,000	4
	Seven to eleven	At least five	At least three	Fifteen	At least nine	Five to nine	5
	No office in another savings bank, etc.	Majority citizens of Virginia; each holder of $100 of stock.	Must each hold 5 shares of stock.	Citizens of West Virginia.		Citizens of United States; majority residents of Wyoming; holders of certain stock.	6
	Semiannually by committee; and before dividends.	Quarterly		Semiannually by committee.	Semiannually by committee of directors or stockholders.		7
Yes	Yes	Yes	Yes	Yes		Yes	8
			Yes	Apparently, yes	Yes	Yes	9
Four	One	One	Three	Four	Five	Four	10
	Every six years		Biennially	Annually			11
One	Two	One	One	One	One	One	12
10 per cent			20 per cent of demand liabilities.	15 per cent of demand deposits.	5 per cent	10 per cent of savings deposits.	13
Cash or deposits			Cash, checks, and deposits.	Two-fifths cash; three-fifths deposits.	Cash or deposits	Cash or deposits	14
	$2,000				$1,000 a year		15
	First lien; loan only three-fifths of value of land, etc.			First liens on land in West Virginia or adjoining States, etc.	First liens on land in certain States, etc.	First liens only	16
Practically, not	Yes	Practically, not	Practically, not	Yes	Very briefly	Very briefly	17
Yes	Yes	Yes	Yes	Yes	Yes	Yes	18

No. 2*c*.

		Alabama.	Arizona.	Arkansas.[b]	California.	Colorado.	Connecticut.	Delaware.	District of Columbia.	Florida.	Georgia.
1	Trust companies legislated for separately	Yes		Yes	Yes	Yes	No	No	Yes	No	Yes
2	Trust companies subject to laws governing commercial banks.	Yes	Query		Except where legislated for separately.	To a certain extent (see page 83).	Yes	In a few matters			Yes
3	Minimum capital[a]	$25,000 to $100,000		$50,000 to $100,000	$200,000	$50,000 to $250,000			$1,000,000 to $1,200,000.		$25,000: not over $2,000,000.
4	Per cent paid in when business begun	All			All	All			50 per cent		20 per cent; not less than $15,000.
5	When remainder must be paid								One year		
6	Surplus: Per cent of net profits to be deducted				10 per cent						
7	Until what per cent of capital				25 per cent						
8	Double liability of stockholders				See page 63	Yes	No		Yes		Yes
9	Directors: How many					Not fewer than three			Nine to thirty		Five to fifteen
10	Directors: Qualifications				Hold $500 of stock		Three-fourths must be residents of Connecticut.		Stockholders; one-half citizens of District of Columbia.		Hold at least 1 share of stock.
11	Directors: Must examine how often				Annually						Semiannually
12	Supervisor may sue for a receiver				Yes	Yes	Yes	Yes	Yes		Yes
13	Supervisor may take possession in insolvency, etc.				Yes	Yes		Yes	Yes		Yes
14	Trust company reports: How many a year[d]				Three	Three	Five	Two	Five		Four
15	Unclaimed deposits must be published				Biennially						
16	Examinations: How many a year[d]		One		Two	Two	Two	At supervisor's discretion.	At comptroller's discretion.		Two
17	Minimum reserve:[a] What per cent of demand deposits							15 per cent and 10 per cent.			25 per cent
18	Reserve:[a] What per cent of time deposits										
19	Reserve:[a] What per cent of all deposits				15 per cent or 20 per cent.		15 per cent				
20	Reserve:[a] What fraction must be in cash				Two-fifths		Four-fifteenths	One-third			
21	Reserve:[a] What fraction may be in deposits				Three-fifths		Eleven-fifteenths	Two-thirds			All
22	Reserve: What fraction may be in securities						One-fifth				All
23	Individual borrower's liability limited to what per cent of capital.[e]				See pages 61 and 70.	20 per cent	20 per cent				10 per cent unless amply secured.
24	Loans on corporation's own stock forbidden[f]				Yes	Yes	Yes				
25	Total loans or deposits restricted to what proportion to capital.										
26	Loans on real estate restricted				First liens only	First liens on Colorado real estate only.					
27	Corporation forbidden to purchase its own stock[f]				Yes						Yes
28	Real estate holdings limited[g]					Yes			Yes		Yes
29	Overdrafts forbidden				Only forbidden to officers.						
30	Branches				Permitted if capital increased.	Prohibited	Prohibited	Allowed on increase of capital, etc.			Allowed

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[a] Where more than one figure is given in answer to the question, it is generally beca
sizes. In reserves, the difference is sometimes that between a reserve depository and a

[b] See page 58 for the impossibility of summarizing Arkansas.

[c] The confused condition of the Louisiana statutes has made a summary of savings

[d] The reports and examinations here tabulated are only the regular reports to st
is usually the minimum per year; many States provide for special reports and exami

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TABLE C.—TABULAR SUMMARY

Idaho.	Illinois.	Indiana.	Iowa.	Kansas.	Kentucky.	Louisiana.[e]	Maine.	Maryland.	Massachusetts.	Michigan.	Minnesota.	Mississippi.
Very briefly	Yes	Yes	Very briefly	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Practically no
If they do banking business.			In part		Yes			In part; see page 236			In some matters	Yes
$25,000; perhaps also same requirement as for banks.		$25,000 to $100,000; maximum, $2,000,000.	$10,000 to $50,000	$100,000; maximum $1,000,000.	$15,000 to $200,000		$25,000 to $150,000; maximum, $1,000,000.	$50,000 to $300,000; maximum, $500,000 to $2,000,000.	$100,000 to $200,000; maximum, $1,000,000.	$150,000 to $300,000; maximum, $5,000,000.	$200,000; maximum, $2,000,000.	$100,000
50 per cent		All, if not over $100,000.	All	20 per cent	50 per cent		All	$50,000 to $300,000	All	50 per cent	$200,000	All
5 months				6 months	1 year					6 months		
10 per cent				10 per cent			10 per cent		10 per cent	10 per cent		
20 per cent				50 per cent			25 per cent		25 per cent	20 per cent		
Yes		Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes		
At least five		Not fewer than six		Five to fifteen			Not fewer than five	Five to seven		At least seven	At least three	
Hold $500 of stock		Majority citizens of Indiana; each holder of 10 shares.		Majority residents of Kansas; each holder of $1,000 of stock.			Two-thirds residents of Maine; each holder of 10 shares.	Stockholders; citizens of Maryland.	Majority residents of Massachusetts; each holder of 10 shares, etc.	Hold 10 shares of stock.	Residents of Minnesota; each holder of 10 shares.	
				Quarterly			Annually by committee of two.		Stockholders' committee examines annually.			Quarterly
Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes		
			Yes	Yes					Yes		Yes	
Two	One	One	Four	Four	Four		One	Two	Not more than 5	Four	One	Four
Biennially								Annually		Reported to commissioner every three years.		
One	One	Two	See pages 171 and 178.	Two			One	One	One	One	Two	
15 per cent				25 per cent			15 per cent		15 per cent and 20 per cent.	20 per cent of matured obligations.		
				10 per cent								
One-half				One-fourth					Two-fifths; and one-half.	One-fourth		
One-half				Three-fourths			Two-thirds		Three-fifths; and one-half.	Three-fourths		
				Three-fourths			One-third		One-fifth			
25 per cent					20 per cent		10 per cent to 25 per cent unless secured, etc.		20 per cent			
Yes				Yes	Yes		Yes		Yes			
	Both, ten times							Loans, ten times				
									Restricted			
Yes				Yes	Yes		Yes		Yes			
Yes		Yes		Yes	Yes			Yes	Yes	Yes	Yes	Yes
		Only forbidden to officers, directors, etc.									Apparently allowed	
							Restricted by location and capital.		One branch in home city.			Forbidden

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ause the statute provides different rules for corporations in communities of different
corporation not authorized to receive reserves of others on deposit.

bank and trust company provisions seem unprofitable; see page 205 of the digest.
tate officials and the regular examinations by state officials The number given
nations at the discretion of the supervisor.

[e] The provisions restricting individual liability vary greatly, as will appear
times of paid-in capital, sometimes of capital and surplus, etc. Liability of an
liability is not considered increased by the discount of bills of exchange drawn
owned by the person negotiating it. Where there are still further exceptions (as
incompleteness.

No. 3*b*.

OF STATE LEGISLATION GOVERNING TRUST COMPANIES.

Missouri.	Montana.	Nebraska.	Nevada.	New Hampshire.	New Jersey.	New Mexico.	New York.	North Carolina.	North Dakota.	Ohio.	Oklahoma.	Oregon.	Pennsylvania.
Yes	Yes	No	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
In respect to supervision, etc.	In part	No	Yes	In respect to reports, examinations, etc.		With respect to supervision, etc.	In certain respects	Probably yes	Probably yes	In part	In some matters	In so far as they do banking business.	In many respects
$100,000; maximum, $10,000,000.	$100,000; maximum, $10,000,000.		$10,000 to $50,000		$100,000	$100,000 and $250,000	$100,000 to $500,000	$5,000 to $25,000	$100,000	$100,000	$100,000 to $200,000; maximum, $10,000,000.	$10,000 to $50,000	$50,000; maximum, $2,000,000.
50 per cent of subscribed capital.	$100,000; 50 per cent		80 per cent	All	All	$50,000 and $100,000	All	Probably 50 per cent	$50,000	50 per cent	50 per cent	50 per cent	
			2 years; see page 381					Probably 5 months	2 years	5 months	6 months	6 months	
10 per cent	10 per cent		10 per cent		10 per cent	10 per cent			Probably 10 per cent	10 per cent		10 per cent	
20 per cent	20 per cent		20 per cent		20 per cent	20 per cent			Probably 20 per cent	20 per cent		20 per cent	
No	Probably yes; see page 360.		No			Yes	Yes	Probably yes		No	Double unpaid stock		Yes
Five to twenty-five	Three to twenty-five		Three to thirteen		At least five	At least five	Thirteen to thirty		Nine to fifteen	Five to thirty	Five to twenty-five	At least three	
Stockholders; a majority citizens of Missouri.	Stockholders; a majority citizens of Montana.		Majority residents of county; each holder of specified amount of stock, etc.	Hold 5 to 10 shares of stock, etc.	Hold 5 shares of stock.	Majority citizens of New Mexico; each holder of 10 shares.	Hold 10 shares of stock.		Majority citizens of North Dakota; each holder of 10 shares.	Three-fourths residents of Ohio; each holder of 5 shares.	Must be stockholders	Hold $500 of stock	
Stockholders' committee examines annually.			Quarterly	Semiannually	Semiannually by committee.		Semiannually		Probably semiannually.	Annually by committee		Quarterly	
Yes	Yes		Yes	Yes	Yes	Yes		Probably yes	Yes	Yes		Yes	Yes
Yes	Yes		Yes		Yes	Yes	Yes	Probably yes	Probably yes		Yes	Yes	
At supervisor's discretion.	Four		Four	Apparently seven	Two	Two	Four	Four	Five	Four	Four	Like national banks	Two
												Biennially	Annually
One	One		Two	One	At supervisor's discretion.	One	Two	Probably one	One	Two	Two	One	At supervisor's discretion.
15 per cent	See pages 352 and 362.				15 per cent		15 per cent; and 10 per cent.					15 per cent and 25 per cent.	15 per cent
												10 per cent	7½ per cent
			15 per cent			15 per cent		15 per cent	Probably 20 per cent	15 per cent			
			One-third		One-fifth	Two-fifths	All; two-thirds; and one-half.	Two-fifths	Probably two-fifths	3 per cent of demand; 2 per cent of time.		One-third	One-third of demand reserve.
All			Two-thirds		Four-fifths	Three-fifths	None; one-third; and one-half.	Three-fifths	Probably three-fifths	15 per cent of all, minus 6 per cent of demand and 4 per cent of time.		Two-thirds	All not held in cash or bonds.
										3 per cent of demand; 2 per cent of time.			One-third of both demand and time reserves.
	See pages 352 and 362.		30 per cent	10 per cent		20 per cent	25 per cent and 40 per cent (see page 463).	10 per cent	Probably 15 per cent	20 per cent		25 per cent with exceptions.	
Yes			Yes	Yes	Yes	Yes	Yes	Probably yes	Probably yes	Yes		Yes	Yes
			Loans, eight times										
	First liens on Montana realty.						Restricted (see pages 464 and 485).		Probably only first liens, etc.	Limited in amount, etc.			
Yes			Yes		Yes	Yes	Yes	Probably yes	Probably yes	Yes		Yes	Yes
Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Apparently allowed			Apparently allowed		Forbidden to officers directors, etc.		Apparently allowed		Forbidden to officers directors, etc.				
			Prohibited				Allowed in home city on increasing capital, etc.					Allowed if capital increased.	

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on reference to the body of the digest. The per cent is sometimes of capital, some-
ndividual firm or corporation frequently includes the liability of members. Commonly,
n good faith against existing values, nor by the discount of commercial paper actually
f the per cent may be exceeded in the case of secured loans) the table aims to suggest its

[f] The limitations on a bank holding its own stock, either as collateral or outright is commonly subj
take it to prevent loss on a debt previously contracted on security thought adequate at the time; the st
sold within a certain time—six months, a year, etc.

[g] For a typical limitation on real estate holding, see the provisions of the Michigan statutes on page

[h] Banks in Tennessee apparently do all the trust business done in the State. See Table for banks.

Rhode Island.	South Carolina.	South Dakota.	Tennessee.[h]	Texas.	Utah.	Vermont.	Virginia.	Washington.	West Virginia.	Wisconsin.	Wyoming.	
Practically no.	No	Yes.	No.	Yes.	Briefly	Yes.	Yes.	Yes.	A few provisions.	Yes.	Yes.	1
Yes.	Yes.	Probably not		Largely	In part.		Yes.	Yes.	Yes.	Largely	In part.	2
	$25,000	$25,000 to $100,000		$50,000; maximum, $10,000,000.	$25,000 to $100,000		$50,000	$25,000 to $100,000	$100,000	$50,000 to $100,000; maximum, $5,000,000.	$10,000 to $100,000	3
All	All.	All.			All.		All.	All.	All.		50 per cent	4
											6 months.	5
	10 per cent	10 per cent.		10 per cent				10 per cent	10 per cent	10 per cent		6
	20 per cent	30 per cent.		50 per cent.				20 per cent.	20 per cent	20 per cent		7
	Yes.	Yes.		Yes.	Yes.	Yes.		Yes.	Yes.	Yes.	Yes.	8
		At least five		Five to twenty-five			At least five	Seven to thirty		At least three	Five to nine	9
Hold $500 of stock	Hold 10 shares of stock.	Majority residents of South Dakota; each holder of 5 shares.		Stockholders; a majority citizens of Texas.			Majority citizens of Virginia; each owns $100 of stock.	Hold 10 shares of stock.		Stockholders; majority residents of Wisconsin.	Citizens of United States; majority residents of Wyoming; each holder of certain stock.	10
							Quarterly			Semiannually by committee of directors or stockholders.		11
Yes.		Yes.		Yes.	Yes.	Yes.	Yes.	Yes.	Yes.		Yes.	12
Yes.				Yes.				Yes.	Yes.	Yes.		13
Five.	Four	Four.		Two.	Four.	One.	Two.	Two.	Four	Five.	Four.	14
Savings deposits every 5 years.						Every 6 years		Biennially				15
Two.	One	Two.		Four	One.	Two.		At supervisor's discretion.	One.	One.	One.	16
		25 per cent.						20 per cent	15 per cent			17
		10 per cent.										18
15 per cent and 25 per cent.										15 per cent	25 per cent	19
Two-fifths.									Two-fifths.			20
Three-fifths		All.						All	Three-fifths	All	All.	21
												22
30 per cent	10 per cent with exceptions.	15 per cent with exceptions.		25 per cent.	15 per cent.	5 per cent of deposits, etc. (see page 670).			20 per cent.		20 per cent.	23
Yes.		Yes.				Yes.		Yes.	Yes.			24
Deposits, ten times.		Loans. ten times										25
	One-half capital and one-half deposits may be so loaned.				First mortgages on Utah land, worth twice the loan.	First lien; loan not to exceed three-fifths value of land, etc.					First liens on land worth twice the loan.	26
Yes.								Yes.	Yes.	Yes	Yes.	27
	Yes.	Yes.		Yes.	Query	Yes.	Yes.	Yes.		Yes.	Yes.	28
Apparently allowed, except to officers, etc.				Apparently allowed.					Limited to 5 per cent of deposits.	Allowed for 90 days.		29
Allowed.				Forbidden.				Allowed if capital increased.		Forbidden.		30

ect to the proviso that the stock may be held if it is necessary to
atutes allowing stock to be thus taken usually require it to be

302.

No. 3c.

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STATE BANKING STATUTES.

ALABAMA.

Article XIII of the constitution of Alabama, entitled "Banks and banking," contains provisions dealing chiefly with note issues, redemptions, etc. The Code of Alabama, which includes all statutes passed prior to the end of the 1907 session, deals with the subject of banks in three articles of the chapter (No. 69) on "Corporations." There are articles in this chapter also, concerned with mutual aid, benefit, and industrial companies, building and loan associations, etc. The three articles really concerned with banking are: (9) General provisions as to banks and banking; (10) Regulation of trust companies; and (11) Examination and regulation of banks. There is no legislation dealing specifically with savings banks, but by section 3561 the provisions of article 11 are made to apply "to all banks except national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not." All the legislation, therefore, for which sections in the code from 3538 to 3561, inclusive, are cited, applies according to the terms of section 3561. These sections, together with a few others, are accordingly grouped in the first division of this summary of Alabama, as bearing upon all banking institutions, including savings banks, and trust companies that are engaged in banking. Under

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the second division, headed "Trust companies," are merely inserted those provisions of the statutes which deal with trust companies. The citations where they are simply numbers in parenthesis are references to the Code of 1907. Mr. T. J. Rutledge, state bank examiner of Alabama, assured the compiler, in a letter dated May 31, 1909, that at that date there had been no banking legislation subsequent to the material included in the digest.

GENERAL PROVISIONS.

I.—Terms of Incorporation.

Banks doing business in Alabama, if in towns of more than 2,500, must have a capital of not less than $25,000 actually paid in and employed in the business; if in smaller towns the capital must be not less than $15,000 (3542).

For combining banking with trust business, see VI, below.

II.—Liability of Stockholders.

No stockholder in any corporation is individually liable for more than the unpaid stock owned by such stockholder (3468, and constitution, sec. 236).

III.—Supervision.

The officer of the State whose duties are concerned simply with banks is the state bank examiner. He must be a competent and experienced accountant and must have no interest, either pecuniary or as an officer, in any bank subject to this statute or in any national bank. His salary is $2,000. His term of office is the same as that of the state treasurer (3549). Information had on examination, etc., must not be disclosed except in the course of duty (3553).

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If the treasurer finds that a bank is not in a solvent condition, he reports the fact to the governor, who institutes proceedings for a receivership (3560).

REPORTS.

All banking institutions in the State report to the state treasurer not less than twice yearly according to the form prescribed by him (3538). These reports exhibit in detail and under proper heads the resources and liabilities of each bank on any past day, specified by the treasurer, and not more than three days prior to the issue of the call for the report by the treasurer. The day for reports must be uniform throughout the State. The bank must transmit its report to the treasurer within five days after receiving his request. The report is published once in a local newspaper (3539). The treasurer may call for special reports from any particular bank in his discretion (3540). State depositaries report daily and monthly to the state treasurer (647).

From his reports during the year the state bank examiner constructs an annual report, which is published by the state treasurer as a part of the treasurer's annual report to the governor (3557). The report of the examiner and the treasurer's report to the governor may always be seen at the treasurer's office (3558). If any annual report of the state bank examiner is deemed of sufficient importance to the public by the governor, he may require the report to be published in newspapers (3559).

EXAMINATIONS.

The bank examiner visits all banking institutions once each year, and twice if it is practicable. The visits are not at stated times, and the bank must not know when they will occur. The examiner carefully and thoroughly exam-

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ines the affairs of the bank and reports to the treasurer immediately. His report covers all the subject-matter that the law requires banks to report upon and such other subjects necessary for the protection of depositors and stockholders as the state treasurer requires. The state treasurer may require an examiner to visit any bank whenever he thinks public interests so demand (3552). The examiner is prohibited from receiving fees from banks (3551). He may disclose information had upon examination only to the state treasurer (3553). He must never report any list of names of depositors or amounts of deposits (3554).

IV.—Reserve Requirements.

No bank, person, firm, or corporation doing a banking business may reduce its cash on hand below 15 per cent of demand deposits, but three-fifths of the 15 per cent may be in the shape of balances due from other banks and bankers (3543).

V.—Discount and Loan Restrictions.

Loans to any individual, firm, or corporation are limited to 10 per cent of the capital, surplus, and profits of the lender, unless the loan is amply secured by good collateral, or is approved by a majority of the board of directors of the corporation making the loan (3547).

Loans must not be made to any salaried officer, agent, or employee of the bank, person, firm, or corporation making the loan, unless good security is furnished (3546).

If losses impair the capital of a bank, the shrinkage is chargeable to profit and loss, so that the notes and bills discounted and the loans made, shown as debts due the bank, may be collectible assets (3548).

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VI.—INVESTMENTS.

Corporations doing a banking business may buy and sell stocks, bonds, etc.; lend money on personal security or upon pledges of bonds and stocks; take security, by mortgage or otherwise, on property, real and personal; become trustees for any purpose; be appointed and act as executors, administrators, guardians, and receivers; and do any business and exercise any powers incident to the business of trust and banking companies doing a banking business (3518).

X.—UNAUTHORIZED BANKING.

No foreign corporations invested with the privilege of banking may exercise it by agent in this State, except by the exclusive use of United States currency (3525).

XI.—PENALTIES.

The penalty for failing for thirty days after notice to make good impaired reserve is $25 for each day after the expiration of the thirty (3545).

Any bank failing without satisfactory reasons to furnish a report when requested by the treasurer forfeits $50 (3541).

Any bank examiner who receives fees from a bank doing business in Alabama is guilty of a felony punishable by imprisonment from one to five years. The person, firm, or corporation offering the fee is similarly punishable (6362).

If the bank examiner reports a list of depositors he is guilty of a misdemeanor which is punishable by fine not exceeding $1,000 and he is also liable to the person, firm, or corporation whose affairs he has disclosed in the penal sum of $1,000 (3555).

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Withholding demands upon banking institutions in order to accumulate enough to induce a run is a misdemeanor, for which the penalty is from $500 to $2,000 (6361).

TRUST COMPANIES.

I.—Terms of Incorporation.

Corporations operating as trust companies must have the word "trust" as part of their corporate names, are amenable to the banking law, and are examined like state banks (3528).

In cities of 5,000 inhabitants or less, trust companies must have a paid-up capital of not less than $25,000; in cities from 5,000 to 30,000 the capital must be not less than $75,000; and in cities of over 30,000 it must be not less than $100,000 (3529).

III.—Supervision.

Trust companies are allowed to deposit with the state treasurer securities of certain prescribed sorts which are used to secure the payment of liabilities of the company in fiduciary capacities and to exempt the company from giving bond (3531 *et seq.*). Trust companies are examined as state banks are (3528).

X.—Unauthorized Trust Company Business.

No corporation which is not organized as a trust company or as a bank or as a combined bank and trust company, and which has not complied with the statute, may use "trust" as part of its name, nor may any partnership use the word "trust" (3530). Corporations that employ the word "trust" illegally as part of their name thereby make their incorporation void and make their members liable as partners (3530).

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ARIZONA.

The most recent compilation of the laws of the Territory of Arizona is the Revised Statutes, 1901. The session laws have been examined through 1909. The legislation on the topics covered by the digest is contained, apart from amendments in the session laws, chiefly in chapter 7 of title 1 of the Revised Statutes, "Territorial Auditor," and in chapter 6 of title 13, "Savings and Loan Corporations." The contents of this latter chapter are digested under "Savings banks;" the companies with which the chapter deals are defined as "corporations organized for the purpose of accumulating and loaning the funds of their members, stockholders, and depositors" (828, amd. by 1903, chap. 86). Most of the provisions in the chapter on the territorial auditor apply in terms to "every building and loan society or association, savings bank, bank, and banking company;" these provisions are digested fully under "Banks," and are merely referred to under "Savings banks." The heading "Trust companies" is omitted from the digest, since such corporations are mentioned only in one section, 131 of the Revised Statutes, which provides for the annual examination of every bank, savings bank, "or any trust company receiving any valuable thing in trust, or money on special deposit." It is possible, of course, that trust companies might be brought within the general expressions "banking corporations," etc., but

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since there is no special legislation with respect to them (except chapter 31 of 1903, which makes certain provision for fiduciary business), a separate heading including such sections as might inferentially be made applicable to trust companies seems of little value. The references, where they are simply numbers in parenthesis, are to sections in the Civil Code in the Revised Statutes of 1901; later acts are cited by year and chapter.

BANKS.

III.—Supervision.

The auditor of the Territory (an official appointed by the governor for terms of two years, with a salary of $1,000—107 and 109) is by virtue of his office bank comptroller of Arizona (129). If on examination of the affairs of any corporation, firm, or individual doing the business mentioned in the chapter on the territorial auditor (the chapter mentions banks, savings banks, and building and loan societies repeatedly; refers in section 131 to trust companies receiving valuable things in trust or money on special deposit; and in section 138, amended by 1909, chapter 90, declares that "the terms bank or bankers whenever used in this law are intended to include all persons, firms, or individuals receiving deposits, buying or selling exchange, or doing any other kind of business as bankers") the bank comptroller finds the bank has violated any law of the Territory or is conducting its business unsafely, he orders a discontinuance of the practices and conformity with the requirements of law and with safety in its transactions; in case of a failure to comply with his order, and whenever it appears to him that it is unsafe for any bank to continue its business, he must then imme-

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diately take possession of the business of the bank and all its property. He notifies the governor and the attorney-general, who causes suit to be instituted to enjoin the institution from the transaction of any further business. If the court then finds that it is unsafe for the business to be continued or that the bank is insolvent, the comptroller surrenders possession to a receiver, who winds up the affairs of the bank (139, amd. by 1907, chap. 96, 1). The bank comptroller may proceed in the same way against any bank which, after having purchased its own stock under the law, fails to dispose of it within six months (1907, chap. 96, 3). He may revoke the license of any bank which, having neglected to furnish a report, fails to pay the statutory penalty (1907, chap. 96, 4). He approves of reserve depositories, and may declare any bank which fails to maintain its reserve insolvent (138, amd. by 1909, chap. 90).

REPORTS.

The bank comptroller, not less than once a year and as often as he thinks necessary, without previous notice, requires every "savings bank, banker, or banking association or corporation" to report its condition (130). Every "savings bank, bank or banking corporation" makes not less than three reports to the comptroller every year, showing the actual financial condition of the bank at the close of business on a past day specified by the comptroller; the report includes a statement of the amount of capital stock, names of directors, number of shares held by directors, amount paid in in money by stockholders for capital, amount of reserve, amount due depositors, and amount and character of liabilities, particulars with respect to real estate held, amount loaned on real estate, with details, amount invested in bonds, with details, amount loaned on stocks and bonds, with

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details, amount loaned on other securities, with details, amount of money on hand or on deposit and where deposited, and a statement of other assets not included in the above list (136). These reports must be transmitted to the comptroller within ten days after the receipt of his request, unless he designates a shorter time; they must be published in a local newspaper (137). Receivers of insolvent banks report to the comptroller as solvent banks do (139, amd. by 1907, chap. 96, 1).

The bank comptroller reports annually to the governor a synopsis of reports received from all the institutions under his control, together with any other proceedings had by him, the general condition of banking and savings banking in the territory, etc. (130). After every examination he reports the condition of the examined institution to the attorney-general (131). At each legislative session he reports the business of his office to the legislature (141). "The semiannual reports provided for" are kept on file at his office and open to public inspection (142); all his books and records are open to public inspection (144).

EXAMINATIONS.

The bank comptroller or some person appointed by him must, at least once in each year and as often as he deems it necessary, without previous notice, visit and thoroughly examine each bank and savings bank "or any trust company receiving any valuable thing in trust or money on special deposit"; he inspects books, papers, etc., and all securities, to ascertain the condition of the corporation, its solvency, etc. (131). It is the duty of the comptroller to examine the condition of the affairs of every bank in liquidation in the same way he examines solvent banks (139, amd. by 1907, chap. 96, 1).

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IV.—Reserve Requirements.

"Every bank, banker, or banking association, except savings banks," must keep on hand in lawful money of the United States 15 per cent of the aggregate amount of its deposits and of any sums or amounts owing on account of money borrowed; of this reserve two-fifths must be in cash and three-fifths on deposit with other banks approved by the comptroller. If a bank fails to keep the reserve as required the comptroller may prohibit it from transacting further business and declare it insolvent (138, amd. by 1909, chap. 90).

V.—Discount and Loan Restrictions.

Among the matters required to be reported are amounts loaned on real estate, amounts loaned on stocks and bonds, and amounts loaned on other securities (136).

No bank may loan or discount on the security of shares of its own stock unless accepting such security is necessary to prevent loss of a previous debt, in which case the stock so acquired must be sold within six months from its acquisition (1907, chap. 96, 3).

For provisions whereby territorial banks may become depositaries of public moneys, see 3770 *et seq.* and amendments of 1905, chapter 56; also 1909, chapter 96.

VI.—Investments.

Among the items required to be reported are "the amount at which the lot and building occupied by the bank for the transaction of its regular business stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise," with details, and "the amount invested in bonds" (136).

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No bank may purchase shares of its own stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months from its purchase (1907, chap. 96, 3).

VIII.—Branches.

Branches are apparently allowed, for the section prescribing compensation for examinations includes the sum which the comptroller is entitled to receive "from each branch or agency of a bank" (140).

X.—Unauthorized Banking.

No corporation, firm, or individual may use the name or transact the business of a "savings bank or bank or banking corporation" without the comptroller's license. A violation of this provision entails a penalty of $100 per day during the continuance of the offense; any person who in any manner attends to such business as manager, agent, etc., forfeits $100 per day also. Any violation of this provision is a misdemeanor (134).

XI.—Penalties.

Whoever refuses to testify before the bank comptroller or his subordinate in the discharge of his duties is guilty of a misdemeanor punishable by fine not exceeding $5,000, imprisonment not exceeding one year, or both fine and imprisonment (132). If the comptroller has knowledge of the insolvency or unsafe condition of a bank and neglects to report to the attorney-general he is punishable by a fine of from $5,000 to $10,000, imprisonment for from one to two years, or both fine and imprisonment; his office is vacated by the offense (133). If any officer or employee of a bank or any other person fails to comply with the provisions relative to dissolution of an insolvent bank

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or refuses to obey the directions of the bank comptroller in dissolution proceedings, he is guilty of a misdemeanor punishable by fine not exceeding $300, imprisonment not exceeding six months, or both (139, amd. by 1907, chap. 96, 1). If any bank fails to furnish the comptroller, within the time specified, with a report required by him, it forfeits $100 per day during the default; failure to pay the penalty is cause for revocation of license to transact business (1907, chap. 96, 4). There is a Penal Code provision making it a misdemeanor for an officer, agent, teller, or clerk of "any bank" to receive deposits knowing that the bank is insolvent (Penal Code, 506).

SAVINGS BANKS.

I.—Terms of Incorporation.

It is hinted that savings banks may be incorporated without capital stock; one section reads: "When savings and loan corporations have a capital stock specified in their articles of incorporation, certificates of the ownership of shares may be issued" (829). Another section requires "the directors of any such corporation having no capital stock" to retain on each dividend day at least 5 per cent of net profits to constitute a reserve fund, which must be invested like other funds of the corporation and used to pay losses. A savings bank may provide by its by-laws for the disposal of any excess reserve fund over $100,000 and the final disposal of the fund (834). The directors of savings banks may declare dividends of so much of the net profits and of the interest arising from the capital stock and deposits as may be appropriated for that purpose under the by-laws and under the agreements with depositors. Depositors have priority over stockholders upon the assets of a savings bank, "but the

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by-laws may provide that the same security shall extend to deposits made by stockholders" (830).

II.—Liabilities and Duties of Stockholders and Directors.

There is no especial provision for stockholders' liability in savings banks.

The directors must not contract any debt or liability against the corporation for any purpose except deposits and for necessary current expenses of conducting business (830). See also V, *infra*, for further restrictions on borrowing by directors (835, amd. by 1905, chap. 13).

III.—Supervision.

The bank comptroller exercises the same authority over savings banks that he does over banks (129 *et seq.*). Savings banks seem clearly within the provisions of the statutes on procedure for a dissolution. (See Banks, III.)

Reports.

See this heading under Banks. The section of the Revised Statutes making it a duty of the bank comptroller to call for a report at least annually, includes savings banks in terms (130). So also does the section requiring the comptroller to report to the attorney-general after each examination (131); that requiring not less than three reports a year including specified items (136); and that requiring publication of the report (137). The provision requiring receivers to report to the bank examiner is applicable to receivers of savings banks, since the section covers the dissolution of "any corporation, firm, or individual doing business as mentioned in this chapter" (1907, chap. 96, 1, amending 139). (See Banks for the various reports made by the comptroller.)

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EXAMINATIONS.

Savings banks are mentioned in the section digested under Banks requiring the comptroller, or a person appointed by him, to make a full examination at least annually (131). The requirement that he examine the condition of banks in the hands of receivers in the same manner in which he examines solvent banks applies to "any corporation, firm, or individual doing business as mentioned in this chapter," thus clearly including savings banks (1907, chap. 96, 1, amending 139).

V.—Discount and Loan Restrictions.

No savings bank may receive a license from the bank comptroller unless at least 50 per cent of its loans are secured by first mortgage or other prior liens upon real estate in Arizona, the loans when made not to exceed 60 per cent of the market value of the security, except when made for the purpose of facilitating the sale of property owned by the bank. No savings bank may loan on mining shares (135).

The directors of a savings bank "must not contract any debt or liability against the corporation for any purpose whatever, except for deposits and for the necessary current expenses of conducting the business" (830). No director or officer of a savings bank may, directly or indirectly, borrow the deposits or other funds of the bank except upon real estate security having a market value of at least one-third more than the amount borrowed or (a misprint in the statutes makes this provision doubtful) upon the stock of the bank owned by the director, but in no case may he borrow upon the stock more than its cash surrender value, nor may he become an indorser or security for loans to others, or in any manner become an obligor for moneys borrowed or loaned by the bank. Upon violation

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of this section the director's or officer's office becomes vacant (835, amd. by 1905, chap. 13).

Savings banks may not loan except upon adequate security on real or personal property or personal security with at least two sureties or indorsers; such loans must not be for a longer period than ten years, and no loan may be made to one person, firm, or corporation to an amount exceeding $20,000 (828, amd. by 1903, chap. 86).

See 833 for provisions with respect to the issue of transferable and nontransferable certificates of deposit.

VI.—INVESTMENTS.

No savings bank may invest its capital or deposits in mining shares (135).

A savings bank may hold real estate only as follows: The lot and building in which the bank's business is carried on, the cost of which must not exceed $100,000, except that, on two-thirds vote of stockholders, the bank may increase the holding to an amount not exceeding $250,000; such as has been mortgaged to it; such as has been purchased on foreclosure sale under mortgages for money so loaned; and such as is conveyed to it by borrowers in satisfaction of loans, the real estate acquired under the last-mentioned circumstances being required to be sold within ten years. As to personalty, a savings bank may hold only such as is requisite for its accommodation in business, mortgages on real estate, bonds and securities, gold and silver bullion, United States mint certificates, and United States securities; no savings bank may hold securities except bonds of the United States, Arizona, or Arizona municipalities unless the bank has a capital stock or reserve fund paid in of not less than $100,000 (831).

VIII.—BRANCHES.

The section cited under Banks, VIII, applies to savings banks also (140).

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X.—Unauthorized Banking.

The section digested under this heading in Banks is applicable also to savings banks (134).

XI.—Penalties.

See Banks, XI, for the penalty for failing to testify before the bank comptroller or his subordinate (132); for the penalty upon the banking comptroller if he fails to report the insolvency of a bank (133); for the penalty for failing to comply with the provisions of the section respecting dissolutions or to obey the directions of the bank comptroller in pursuance of his power to dissolve (1907, chap. 96, 1); and for the penalty for failing to furnish the bank comptroller with any report required by him (1907, chap. 96, 4): in some of the above provisions imposing penalties, savings banks are specifically mentioned, and in others they are included by reasonable inference. The provision of the Penal Code making it a misdemeanor for an officer, agent, etc., to receive deposits, knowing that the bank is insolvent, applies to "any bank" (Penal Code, 506).

Particular savings bank penalties include the provision which makes it a felony for any president or managing officer to violate the provisions of 135, which withhold a license unless 50 per cent of the bank's loans are secured by first mortgage on Arizona real estate, which forbid taking mining stock as security or investment, etc. (135); and the provision which makes it a misdemeanor for any director or officer to violate the statute restricting loans to officers or directors (835, amd. by 1905, chap. 13). Also there is a provision in the Penal Code making it a misdemeanor for an officer, agent, etc., to overdraw his account knowingly and obtain money (Penal Code, 505).

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ARKANSAS.

There is practically no banking legislation in this State. A few scattering provisions appear in the revision of statutes by Kirby (1904): The most important are on taxation, reports to the assessors, etc. (sec. 6919, *et seq.*); others forbid banking by limited partnerships (5803); make a willful false report, with intention to deceive any person as to the condition of the bank, punishable by fine not exceeding $1,000 and imprisonment not exceeding one year (1813); and forbid receipt of deposits in insolvency, making it a felony on the part of any officer, director, etc., knowingly to receive these deposits, punishable by imprisonment of from three to five years (1814). The session laws of 1905 and 1907 contain no banking legislation. In chapter 31 of the revision, sections 887–891 deal with trust and surety companies. The most important provisions of these sections are as follows: No share of stock may be of greater face value than $1,000 (887). The total paid-up capital must be not less than $100,000 in a county of more than 50,000; not less than $75,000 in a county of 40,000 to 50,000; and in no case less than $50,000 (889). Trust company powers do not in terms include the power to do a banking business; they may "exercise such powers as are usually had and exercised by trust companies," may "loan money upon real estate and

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collateral security," and may "buy and sell all kinds of government, state, municipal, and other bonds and all kinds of negotiable and nonnegotiable paper, stocks, and other investment securities" (888). So far as trust company affairs are not covered by these few sections they are governed by the laws of the State governing banks; and trust companies are "subject to such examinations as banks are now or hereafter may be subjected to by the laws of this State" (890)—but there is no statute of the State subjecting banks to examination at all. Although at the date of making this compilation the 1909 session laws are not accessible, a reprint of the corporation laws of Arkansas, published by authority of the secretary of state and including all 1909 amendments, contains no material except that digested above; it is merely noted in the reprint that banks organize under the laws applicable to manufacturing and other business corporations.

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CALIFORNIA.

A digest of the statutes of this State was prepared before the session laws of 1909 were available; it consisted of provisions extracted with some difficulty from the four volumes of Codes (by Kerr), published in 1906, from the General Laws (by Henning), published in 1905, and from the later statutes and amendments to the Codes, including legislation of 1906 and 1907. The legislature of 1909 passed a statute, chapter 76 of the 1909 laws, which consists of an article entitled "General provisions," one entitled "Savings banks," one entitled "Commercial banks," one entitled "Trust companies," and one entitled "State banking department." The compiler of this digest has been advised by William L. McGuire, esq., superintendent of banks of California, that the new statute, in repealing at section 146 "all acts or parts of acts in conflict with this act," obliterates all the legislation previously in force. The new statute does, indeed, cover completely the topics treated by the digest; it is a well-drawn piece of legislation defining the three sorts of institutions sharply and leaving little room for doubt to which of the three each particular provision of the statute is applicable. The advice of the superintendent of banks has, therefore, been acted upon, to exclude from the digest all legislation except the 1909 statute. The compiler feels less confidence in the correctness of this view, however, since a later stat-

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ute of the 1909 session, chapter 453, amends section 290a of the civil code by altering slightly the provisions with respect to the affidavit required to be made by the directors of a newly incorporated trust company that certain capital has been paid in before a certificate of incorporation issues.

The statute of 1909 defines "bank" to include all persons, firms, and corporations receiving money on deposit, and divides banks into three classes, savings banks, commercial banks, and trust companies (2). The provisions framed to apply to banks, therefore, and inserted in the digest only once under "Banks," must be remembered to be applicable to all three sorts of institutions; where the provisions digested under "Banks" apply only to commercial banks, that is indicated. The provisions of Article III of the statute, which is headed "Commercial banks," should no doubt be taken as applicable to commercial banks exclusively. It is to be noted, however, that, although in that article the term "commercial bank" is usually used, one or two provisions contain the language "each bank," which, if the statute is to be read literally, applies to all three sorts of corporations, because in section 2 "bank" is used to include commercial banks, savings banks, and trust companies. All the provisions under Article V of the statute, "State banking department," are applicable to all three sorts.

The references, where they are merely numbers in parenthesis, are to sections in chapter 76 of 1909.

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BANKS.

I.—Terms of Incorporation.

Corporations may be formed under the statute, to do "any one or all" of the three sorts of businesses, savings banking, commercial banking, and trust company business (3). Another section provides that any corporation may combine the business of "a commercial bank and savings bank and trust company, or any or all of them" (22). The departments must be kept separate (25, 26, and 27). A bank doing a commercial business must include "commercial" in its advertising, etc.; one doing a savings business must use "savings;" and one doing a trust business must use "trust" (28). Before a bank begins business or opens a new department, it must obtain a certificate from the superintendent (24).

The superintendent passes upon the character and fitness of the incorporators before issuing a certificate authorizing them to begin business (128).

Every commercial bank must have a paid-in capital of $25,000 (82). Every bank doing a departmental business must have a capital paid up in cash of not less than $25,000 if it transacts both a commercial and savings business, and not less than $225,000 if it transacts both a commercial and trust business, or both a savings and trust business, or a commercial, savings, and trust business (23). Paid-up capital and surplus must always equal 10 per cent of deposit liabilities; deposit liabilities may not be increased when this proportion is wanting (19).

The directors of any bank having a capital stock may pay dividends to depositors and stockholders of so much of the profits as may be appropriated for that purpose under the by-laws or under the agreements with depositors, but before a dividend is declared at least one-tenth

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of the net profits for the preceding half year must be carried to surplus, until it amounts to 25 per cent of paid-up capital. The surplus may be converted into capital, in which event surplus must be restored. Depositors have priority upon the assets of the corporation over stockholders, but the by-laws may provide that the same security shall extend to deposits made by stockholders (21).

II.—Liabilities and Duties of Stockholders and Directors.

There is a constitutional provision that "each stockholder of a corporation or joint-stock association shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation or association." (Art. XII, sec. 3). No bank may make a contract with its depositors whereby this stockholders' liability is waived; any such contract is void (40).

To be a director, one must own shares of the market value of at least $500. In banks "organized without capital stock" (there are a number of provisions framed in this language which seem designed only for savings banks) a director must be both a member and a depositor of the bank (10). The directors must make annual examinations and report the results to the superintendent (see III, *infra*).

III.—Supervision.

There is a state banking department, of which the chief officer is the superintendent of banks, appointed by the governor for terms of four years. The superintendent must have had active banking experience, one-half of which must have been had in California, and must not be

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interested in the business of banking. His salary is $10,000 a year (120). His deputy, attorney, clerks, and examiners must not be interested in banks in the State, and the deputy must have had at least three years' experience in a California bank. Neither the superintendent, his deputy, nor an examiner may be in any way indebted to a bank under his supervision or subject to his examination (121). The expenses of the department, including salaries, are paid out of what is known as the state banking fund, to which each bank contributes such proportion as its deposits bear to the aggregate deposits in banks subject to the supervision of the department (123). The superintendent, before authorizing a bank to begin business, ascertains whether the character and general fitness of the incorporators are such as to command the confidence of the community (128).

The superintendent notifies a bank or a trust company whose reserve is below the requirement to make good the reserve, and if it fails for thirty days to comply it is proceeded against as insolvent (20). When the superintendent has reason to believe that the capital of a bank is reduced below the requirement, he requires the deficiency to be made good within sixty days (133). If it appears to him that any bank has violated its articles of incorporation or any statute, he must direct the discontinuance of the violation, or, if it appears that a bank is conducting its business in an unsafe manner, he must direct a discontinuance of the injurious practices. If, after a hearing, he makes such an order final, and if, within ten days, the bank has not secured an injunction against the enforcement of the order and still fails to comply with it, the superintendent may take charge of the bank and liquidate it (134). The provisions for the superintendent's taking control and liquidating are elaborate. Whenever he has reason to think that a bank is in an unsound condition to

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transact its business or that it is unsafe or inexpedient for it to continue business, he may take possession and retain possession until the bank resumes business or its affairs are finally liquidated. He is given various powers and duties with respect to collection of debts, appointment of special deputies to assist in liquidating, proof of claims, enforcement of stockholders' liability, etc. (136). No examiner may be appointed receiver of a bank which he has examined (125).

The superintendent has certain supervision over the sale of the assets of one bank to another and the assumption by the buyer of the seller's obligations (31); over the sale by a director, officer, employee, or controlling stockholder, to the bank, of a mortgage arising from the sale of real estate made by a corporation in which such a director, officer, employee, or controlling stockholder is interested—this transaction is permitted only upon the superintendent's consent (35); and over branches, which he must approve before they may be opened (9). The superintendent passes upon loans by commercial banks to their directors (33).

The superintendent keeps a bulletin in his office on which he posts weekly a detailed statement giving general information in regard to the work in his department and numerous items specified in the statute (141).

REPORTS.

The superintendent of banks calls for reports at least three times a year, on the same days, if possible, as those on which national banks report (131). Whenever required by the superintendent, every bank must report, showing the financial condition of the bank at the close of a past day specified by the superintendent. The following items must be included: Amount of capital and amount paid in; names of directors and shares held by

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each; capital actually paid in in money; amount of contingent and reserve funds; amount due depositors; amount and character of other liabilities; real estate held, with particulars; amount loaned on real estate, with particulars; bond investments; loans on stocks and bonds; loans on other securities; money on hand or on deposit, and in what depositories; other property held; other loans, deposits, and investments; and any other information requested by the superintendent (130). Banks conducting a departmental business render a separate report for each department (129). At the time a report is furnished each bank publishes a condensed statement of its financial condition in a local newspaper, showing loans, overdrafts, investments in securities, amount due from banks, cash items, cash on hand, capital, surplus, undivided profits, amounts due other banks, deposits, certified checks, etc. (132).

Every other year each bank reports to the superintendent the names of depositors who have not deposited or withdrawn funds for ten years. These statements must show the amount of the account, the depositor's last known residence, and the fact of death, if known. These deposits must be noticed in a local newspaper (15).

The board of directors of every bank, at least annually, and at intervals of not less than three months, must examine the affairs of their bank, especially with a view to ascertaining the value and security of its loans and discounts. The directors place a report of the examination on file, which the superintendent of banks may examine. This report must contain a statement of the assets and liabilities of the bank, loans which are of doubtful value, loans on collateral which are insufficiently secured, overdrafts, with especial reference to those which are doubtful, and a full statement of whatever other matters affect the solvency of the bank (139).

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In the article on commercial banks and in a section dealing apparently with commercial banks, it is provided that "each bank" having a loan outstanding to any director must report monthly to the superintendent details with respect to such loans (83).

Every year the superintendent of banks reports to the governor, for submission to the next legislature, a summary of the condition of every bank subject to the control of the superintendent, a list of new banks and of old banks which have been closed, recommendations for amendments to the banking law, a list of banks in process of liquidation, and details of the administration of the banking department (140). This report must include information with respect to deposits which have not been dealt with for ten years (15).

For reports required of depositories of state funds, see 1907, chapter 50.

EXAMINATIONS.

The superintendent, his deputy, or some examiner appointed by the superintendent, examines every bank other than a savings bank twice a year, making inquiry into the resources of the bank, its mode of conducting its affairs, the action of its directors, its investments, the safety and the prudence of its management, the security afforded to its obligees, its compliance with law, and such other matters as the superintendent prescribes. Examinations may be oftener if the superintendent thinks them necessary. When, upon examination, an examiner finds a bank holds securities which are of doubtful value, the superintendent may employ appraisers to appraise the securities (124). When the superintendent has ordered impaired capital to be restored, he may cause a special examination to be made to determine whether the deficiency has been made good (133). If a bank fails to

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report, its affairs are immediately thoroughly examined (138). There is a preliminary examination before a certificate to begin business or open any new department is granted (24 and 127).

The board of directors of every bank examine it at least once a year, and file in the bank a record of their examination, to which record the superintendent has access. Items with respect to which this examination and report are made are given above under Reports (139).

Any national bank receiving deposits of state banks must submit to examination at the request of the superintendent. If the national bank refuses, then the superintendent notifies all state banks depositing in this particular national bank to withdraw their deposits. Failure to withdraw is a misdemeanor (48).

IV.—Reserve Requirements.

Every bank other than a savings bank must at all times keep on hand in money an amount equal to 15 per cent of its deposits, exclusive of state, county, and municipal deposits. Three-fifths of the reserve of any bank other than a savings bank may consist of deposits in any bank other than a savings bank. Banks which serve as reserve depositaries must maintain a reserve of at least 20 per cent of deposits, exclusive of state, county, and municipal deposits. When reserves fall below the requirement, a bank must not make new loans or discounts except by discounting sight exchange and must not make dividends from profits until the reserve is restored. The superintendent notifies banks whose reserves are below the requirement to make good the reserve (20). Banks doing a departmental business maintain the statutory reserve for each department separately. No department may receive deposits of any other department of the same

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bank (25). No bank may deposit any of its funds in any other bank unless the depository has been designated as such by vote of a majority of the directors of the depositing bank, exclusive of the vote of any director who is an officer or director of the depository bank (43).

V.—Discount and Loan Restrictions.

No bank may loan on real estate unless its security is a first lien; second liens may be taken, however, to secure the payment of previous debts (47).

No bank may loan on the security of the stock of another bank if by making the loan the total stock of the other bank held by the loaning bank as collateral exceeds 10 per cent of the other bank's stock, and no loan may be made upon the capital stock of any bank which has not been in existence for two years and paid a dividend (44). No bank may loan its capital or the money of its depositors on shares of its own stock unless accepting this security is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months "from the time of its purchase" (34). No bank may loan more than 5 per cent of its assets upon bonds of any one issue except bonds of the United States, California, or California municipalities (46).

No officer or employee may directly or indirectly borrow the funds of the bank, nor may any officer, employee, or director be an indorser or surety for loans to others or in any manner be obligor for moneys borrowed or loaned by the bank (33). Officials of the banking department may not borrow from banks subject to their supervision (121). No director, officer, employee, or controlling stockholder may directly or indirectly sell to his bank, without the consent of the superintendent of banks, any mortgage on real estate or contract resulting from the

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sale of real estate made by a corporation or syndicate in which the director, officer, employee, or controlling stockholder is interested (35).

No commercial bank may loan to any person, firm, or corporation an amount exceeding one-tenth of its capital paid in and surplus, except that "a bank" may loan to a person, firm, or corporation, a sum not exceeding 25 per cent of its capital paid in and surplus, on security worth at least 15 per cent more than the loans, or it may loan 10 per cent of capital paid in and surplus, as stated at the beginning of this paragraph, and a further sum not exceeding 15 per cent of capital paid in and surplus on security worth at least 15 per cent more than the amount of the loan; but a commercial bank may buy, or discount or loan upon, bills of lading, warehouse receipts, and bills of exchange drawn in good faith against existing values, or commercial paper owned by the person negotiating it (80).

No loan may be made by a commercial bank on the securities of one or more corporations, the payment of which is undertaken, in whole or in part, severally but not jointly, by two or more individuals, firms, or corporations: (*a*) if the borrowers or underwriters are obligated absolutely or contingently to purchase the collateral securities, unless the borrowers or underwriters have paid in cash an amount equal to at least 25 per cent of the amount for which they are still obligated to complete the purchase; (*b*) if the commercial bank making the loan is liable, directly or indirectly, or contingently, for the repayment of the loan; (*c*) if the term of the loan exceeds a year, including any agreed renewal of it; or (*d*) to an amount, under any circumstances, in excess of 25 per cent of the capital and surplus of the commercial bank making the loan (81).

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No commercial bank may loan any of its funds to any of its directors unless the loan has been first approved by a two-thirds vote of the directors, the borrower not voting; the loan, name of director, time when the loan is due, rate of interest, and security pledged, if any, are submitted to the superintendent of banks, who, if he disapproves, notifies the bank to collect the loan. The total loans to all directors of a bank must never exceed 30 per cent of capital and surplus (83).

VI.—Investments.

No bank may invest in shares of corporations unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months from the purchase, unless the superintendent grants permission to hold it longer (37). No bank may invest more than 5 per cent of its assets in any one bond issue except bonds of the United States, California, or California municipalities (46). No bank may purchase or guarantee any bond issue in excess of 5 per cent of its assets, except bonds of the United States, California, or California municipalities (36). No bank may purchase or invest capital or deposits in shares of its own stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months (34). See V, above, for other investment restrictions, and see IV, above, for provisions respecting the designation of depositories.

Investments, like all other transactions, must, in the case of a bank having different departments, be made separately and accounted separately for each department. The cash, securities, and property of one department must not be mingled with those of another (26). The money belonging to each department and the investments are

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held solely for the repayment of depositors in that department; if after paying the depositors in that department an overplus remains, it is applied to the other liabilities of the bank (27).

VII.—Overdrafts.

The report made by the directors at least annually after an examination of the affairs of their bank must include "a statement of overdrafts" (139); and the summary of each bank's condition published at the time it reports to the superintendent must show "the total amount of overdrafts" (132). See also the section which makes it a felony for any officer, employee, director, etc., to overdraw his account or to accept a bribe for permitting an overdraft by another (39).

VIII.—Branches.

No bank may open an office other than its principal place of business without the approval of the superintendent of banks, which is only given if the superintendent has ascertained that public convenience will be promoted by opening the office; in any case the paid-in capital must exceed the ordinary requirement by $25,000 for each branch opened (9).

X.—Unauthorized Banking.

No person, firm, or corporation not subject to the supervision of the superintendent and not reporting to him may use an office sign having a name or other words on it indicating that the place is a bank or that banking business is done there; no person, firm, or corporation may use letter heads or other papers showing a corporate name or other words indicating that the business is that of a bank, savings bank, or trust company. Violation of this

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section is a misdemeanor (12). It is a misdemeanor also to transact banking business in the State without the certificate of the superintendent (127). For restrictions on banking by foreign corporations, see 7.

Every individual, firm, or corporation doing a banking, business must on its signs, stationery, advertising, etc., use the word "commercial" if it conducts a commercial business, "savings" if it conducts a savings business, and "trust" if it conducts a trust company business (28).

XI.—Penalties.

The following are misdemeanors: The purchase by a director, officer, agent, or servant of a bank, directly or indirectly, of the assets of a bank for a sum less than their market value (42); direct or indirect borrowing of the funds of a bank by an officer or employee, or an officer, employee, or director becoming in any manner an obligor for money borrowed or loaned by the bank (33); failure by a state bank to withdraw its deposits on order of the superintendent from a national bank which refuses to be examined (48); advertising by a bank or one of its officers the authorized or subscribed capital without also stating how much has been actually paid up (14); unauthorized maintenance by a bank or an officer or director of a bank of a branch office (9); failure by president or managing officer of a bank to report deposits not dealt with for ten years (15); failure on the part of a bank to post conspicuously its last certificate from the superintendent (50); and failure by the directors of a bank to make an annual examination and file at the bank a report based on it (139). There seems no reason to suppose that the 1909 statute repeals a section of the Penal Code, formerly in force, which makes it a misdemeanor for an officer or employee of a bank to receive deposits knowing the bank is insolvent (Penal Code, sec. 562).

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The following are felonies: Violation by the officers of a bank of the section which forbids purchases of and loans upon shares of a bank's own capital except when necessary to prevent loss on a previous debt and requires the stock thus held to be disposed of within six months (34); violation by a director, officer, employee, or controlling stockholder of a bank of the section forbidding transfers to the bank of mortgages arising from the sale of real estate made by a corporation or syndicate in which the offender is interested (35); violation by the officers of a bank of the section forbidding investments in shares of corporations except when necessary to prevent loss on previous debts and requiring the sale of such stock within six months (37); neglect by the deputy of the superintendent or any examiner, with knowledge of the insolvency or unsafe condition of a bank, to report the fact to the superintendent (126); neglect on the part of the superintendent himself, if he has knowledge of the insolvency or unsafe condition of a bank, to take action against it as provided in the statute (143); and violation by an officer or director of a commercial bank of the section restricting loans to directors and requiring them to be approved by the superintendent and to be monthly reported to him (83). Any director, officer, agent, or employee of a bank who takes its property except in payment of a just demand and, with intent to defraud, omits to make true entry of the transaction on its books, or concurs in omitting to make true entry, or concurs in publishing false statements of its affairs, or fails to make proper entry in the corporation's books or to allow them to be inspected by the banking department, is guilty of a felony (38). Any director, officer, employee, etc., of a bank who knowingly overdraws his account and obtains the funds of his bank and asks or receives a consideration for procuring a loan from or dis-

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count by his bank, or for permitting an overdraft of an account with the bank, is guilty of a felony (39).

No director, officer, or agent of a bank may be interested in the purchase of any of its obligations for a less sum than appears upon their face (41).

Any bank which fails to make its report within ten days from the day designated for making it or to include in the report any matter required by law or by the superintendent forfeits $100 for each day's offense (138).

Banks which fail to contribute their share to the fund out of which the expenses of the banking department are paid forfeit their certificates to transact business (123).

SAVINGS BANKS.

I.—Terms of Incorporation.

As noted in Banks, I, savings banking may be combined with the other sorts of business (3 and 22). The statute, as was noted in the introductory paragraph, contains certain provisions applicable to banks organized without capital stock; it is to be inferred from this that some savings banks are mutual organizations. "Savings" must appear on all advertising, etc., of a bank conducting a savings business (28).

See Banks, I, for the requirements for the capital stock of a bank doing a departmental business. The savings bank provision is that every savings bank must have, actually paid in, a capital stock of not less than $25,000; or, if organized without capital stock, a reserve fund of at least $1,000,000 (60). In the section requiring paid-up capital and surplus of every bank to equal 10 per cent of its deposit liabilities it is provided that no savings bank may be required to have a paid-up capital and surplus of more than $1,000,000; or, if organized without capital stock, a reserve fund of more than $1,000,000 (19).

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The directors of a savings bank which has no capital stock must retain on each dividend day at least 10 per cent of the net profits of the bank to constitute a reserve fund, which must be invested in the same manner as the other funds of the bank and applied to payment of any losses (64).

Restrictions on borrowing by savings banks and on deposits in savings banks are grouped with loans under V, *infra*.

II.—Liabilities and Duties of Stockholders and Directors.

The only particular provision to be here recorded with respect to savings banks is that to be a director in a bank organized without capital stock one must be both a member and a depositor of the bank (10).

III.—Supervision.

The superintendent of banks has, besides his regular duties given under Banks, authority with respect to savings banks to fix the amount which savings banks shall be allowed to borrow to meet demands of depositors, and the time and rate of interest on these loans (62).

EXAMINATIONS.

The superintendent must examine banks other than savings banks at least twice a year, and must examine savings banks at least annually. He has, of course, the power stated under Banks, of examining any bank whenever, in his judgment, such an examination is necessary (124).

IV.—Reserve Requirements.

Each savings bank must carry in cash or its equivalent an amount equal to 4 per cent of its deposit liabilities, of which 2 per cent of deposit liabilities must be in coin or

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currency of standard value, in the bank's own keeping. No new loan may be made during any deficiency in this reserve (68). The provisions for the "reserve fund" required of savings banks without capital stock (see I, above) have no reference to money reserve, but to an invested fund to take the place of capital stock.

V.—Discount, Loan, Deposit Restrictions, etc.

No director or officer of a savings bank may directly or indirectly borrow its funds nor become in any manner obligor for moneys borrowed of or loaned by the savings bank (65). No savings bank may loan money except on adequate security of real or personal property and never for a longer period than ten years. No loans may be made on unsecured notes. No savings bank may loan more than 5 per cent of its assets on bonds of any one issue, except bonds of the United States, California, or California municipalities. No savings bank may loan to exceed 90 per cent of the market value of bonds specified in (*a*), (*b*), (*c*), and (*d*) of the second paragraph of Investments, below, nor more than 85 per cent of the market value of bonds specified in (*e*), nor more than 75 per cent of the market value of bonds specified in (*f*) and (*g*), nor more than 65 per cent of the market value of personal property and stock of corporations or banks; no loan may be made on the capital stock of a corporation or bank that has not been in existence for two years and has paid a dividend. No savings bank may loan on any real-estate security unless the security is a first lien, and in no event to exceed 60 per cent of the market value of the real estate except to facilitate the sale of property owned by the savings bank; a second lien may, however, be accepted to secure the payment of a previous debt. No savings bank may loan on shares of mining stock. No savings bank may

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loan on the security of shares of stock in another bank, if by making the loan the total stock of the other bank held as collateral by the loaning bank exceeds 10 per cent of the other bank's stock (67). No savings bank may loan on the bonds of any corporation if the franchise of that corporation expires prior to the maturity of the bonds or if its special franchise granted by some municipality so expires (61).

No savings bank may contract any debt or liability for any other purpose than deposits, except the following: It may pay regular depositors by draft on deposits to its credit with other banks. No savings bank may borrow, or pledge its securities, except to meet the immediate demands of its own depositors, and then only by resolution of the directors and with the approval of the superintendent of banks, who has authority to fix the amount, term, and rate of interest of the loan. Savings banks may, however, without the approval of the superintendent, borrow the public moneys of the State and of municipalities, and may receive such public moneys on deposit (62).

Savings banks may issue transferable certificates of deposit and, when requested, special nontransferable certificates (63).

Deposits may be made with commercial banks and trust companies to facilitate business transactions, and these are not to be construed as loans. Not more than 5 per cent of the deposits of any savings bank, however, may be deposited with any one bank (68).

Whenever there is a call by depositors for the payment of a greater amount than the savings bank has disposable, the directors must not make new loans or investments until the excess of call has ceased (64).

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VI.—Investments.

Saving banks may hold real estate only as follows: (1) The lot and building in which the business is carried on, their cost not to exceed the amount of capital and surplus; (2) such realty as has been mortgaged to the savings bank; (3) such as it has purchased at sales under mortgages made for its benefit and such as is conveyed to it in satisfaction of loans. Real estate acquired under (3) must be sold within ten years unless permission for longer holding is given by the superintendent.

No savings bank may hold personalty except such as is required for its accommodation in business, and mortgages on real estate, bonds, securities, etc., bullion, mint certificates, and evidences of debt issued by the United States. Bonds and securities may be held only as follows: (*a*) United States securities; (*b*) bonds of California; (*c*) bonds of any State which has not defaulted in principal or interest in five years; (*d*) bonds of California municipalities; (*e*) bonds of any city, town, or county of 20,000 inhabitants in any other State, provided the entire bonded indebtedness of the municipality does not exceed 5 per cent of its taxable property, including the issue of bonds under which the investment is made, and provided that the municipality or the State in which it is situated has not defaulted on principal or interest for five years; (*f*) first mortgage or underlying bonds of a steam railway in the United States, the income of which pays operating expenses and fixed charges; (*g*) bonds of street railroads, water, light, light and power, gas, and other public utility and industrial corporations. These bonds must be secured by a first or underlying mortgage of the corporation issuing the bonds, or by a refunding mortgage to retire all prior

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debts of the corporation, and the income of the corporation must have been sufficient to pay operating expenses and fixed charges for three years prior to the issue of the bonds or else the payment of the bonds must have been guaranteed by a corporation which has paid operating expenses and fixed charges for three years prior to making the guaranty; (*h*) first mortgage bonds of real-estate corporations, provided the bond issue does not exceed 60 per cent of the market value of the real estate taken as security. No savings bank may purchase bonds of a corporation if the franchise of the corporation expires prior to the maturity of the bonds, or if the special franchise granted to this corporation by a municipality so expires (61). No savings bank may deal or trade in realty or personalty except as provided in the statute (62). No savings bank may invest more than 5 per cent of its assets in bonds of any one issue, except bonds of the United States, California, or California municipalities. No savings bank may purchase mining stock (67).

X.—Unauthorized Banking.

No commercial bank, individual banker, trust company, firm, or corporation may advertise as a savings bank or in any way solicit or receive deposits as a savings bank, except savings banks or other banks having savings departments subject to the provisions of the statute (49). Every individual, firm, or corporation doing a savings banking business in the State must use the word "savings" on its signs, advertising, stationery, etc. (28).

XI.—Penalties.

Particular provisions with respect to savings banks make it a misdemeanor for a director or officer to borrow,

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directly or indirectly, the funds of his bank, or be in any way an obligor for moneys borrowed of or loaned by the bank; it is similarly a misdemeanor to authorize or consent to such a loan or to receive it. The officer or director violating these provisions immediately loses his office (65). The president or managing officer consenting to a violation of the section containing most of the restrictions on savings bank loans (see V, *supra*) is guilty of a felony (67).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust-company business may be combined with either or both of the other two sorts (3 and 22). Trust funds must of course be kept separate from other assets (32). "Trust" must appear in all advertisements, etc., of a bank doing a trust business (28).

Before the superintendent issues a certificate of authority to transact business, a majority of the board of directors of the proposed trust company must make affidavit that at least $200,000 of capital stock has been paid in (100). See Banks, I, for capital required for departmental business.

III.—Supervision.

Before doing a trust business, a company must deposit with the treasurer of the State $100,000 in certain securities (96, *et seq.*). The superintendent supervises the retirement from business of any trust company (102).

REPORTS.

In addition to the items required in the reports of every bank, a trust company must furnish a list and brief description of the trusts it holds, etc. (101).

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VI.—Investments.

Trust companies invest their capital and trust funds in accordance with the laws relative to the investment of funds deposited with savings banks, unless a specific agreement to the contrary is made between the trust company and the person creating the trust (105).

X.—Unauthorized Trust Company Business.

The use of the word "trust" in connection with the words "company," "association," etc., is prohibited to everyone except corporations provided for in the statutes. The use of the word without authority is a misdemeanor. No corporation may use the word "trust" or "trustee" as part of its name unless it is authorized by its articles of incorporation to act in fiduciary capacities, nor may it act in such capacities unless it has complied with the provisions of the statute (104). Every bank conducting a trust department must use the word "trust" on its signs, advertising, and stationery (28).

XI.—Penalties.

The officers of any bank receiving trust funds who mingle these funds with other assets of the bank or count them as part of the reserve are guilty of a felony (32).

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COLORADO.

Mills' Annotated Statutes of Colorado, volumes I and II, include all statutes in force January 1, 1891. Volume III carries the statutes to January 1, 1905. Subsequent statutes are in the session laws of Colorado for 1905, 1907, and 1909. In volumes I and II, banks are treated in a short chapter (12); and in chapter 30 (corporations), there are provisions, in division 2 (particular corporations), on first, banks (secs. 510–519), second, savings banks (secs. 520–530), and third, trust, deposit, and security associations (secs. 535–544). Volume III, though it does not alter the law on banks and savings banks, adds a later act for the regulation of trust companies, embodied in sections 544*a* to 544*l*. In the session laws of 1907 there is an important act at page 222, providing for supervision and other regulation, extending, under section 36 of the act, to all individuals, firms, savings banks, trust companies, or other corporations engaging in banking business in Colorado. Since this act applies, therefore, to all banking institutions, its provisions, together with those of the former statutes which apply generally, are grouped in the digest under the title "General provisions." Those provisions which apply only to one of the three classes are later grouped under the respective titles: "Banks," "Savings banks," and "Trust companies." Where citations are simply numbers in parenthesis they are to sections in Mills' statutes. The act of

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1907 is cited by its number in the session laws for that year (111) and by sections in the act. There is late legislation dealing with building and loan associations.

GENERAL PROVISIONS.

I.—Terms of Incorporation.

The liability of any bank for borrowed money or rediscounted paper must never exceed the amount of the actual capital stock paid in (111, 27). Dividends must be declared only from net earnings (531).

II.—Liabilities and Duties of Stockholders and Directors.

Shareholders in banks, savings banks, trust, deposit, and security associations are individually responsible for the debts of the corporations in an amount double the par value of their stock (533).

If any director or officer receives deposits or creates debts with knowledge of the corporation's insolvency, he is guilty of larceny; he is also individually responsible for the deposits received or indebtedness contracted (222, 224, and 111, 31). The executive officers of all corporations give bonds for the faithful performance of their duties; breach of these bonds gives a right of action to whatever persons are damaged (111, 39). No officer of any banking institution may take compensation as an inducement to make a loan out of the funds of the bank (111, 32).

III.—Supervision.

The official in charge of banking is the state bank commissioner, a qualified person who has been for three years a citizen of Colorado, who has had at least five years'

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experience in practical banking, and who is not interested in any banking institution except as a depositor. His term of office is four years (111, 1). The commissioner's salary is $3,600 a year (111, 2). He and his deputies must keep secret whatever information they obtain in the course of their duties (111, 3 and 4).

If a bank refuses to submit its books for the inspection of the commissioner, or refuses to furnish information, he institutes proceedings for the appointment of a receiver (111, 7). If he has reason to believe that the capital of any banking institution is impaired he must examine the bank to ascertain its true condition; and if he finds the capital really impaired, he requires the bank to make good the deficiency. If for sixty days the deficiency is not made good to his satisfaction, he takes control of the bank and institutes proceedings for a receivership (111, 8). When he learns that a banking institution has refused to pay its depositors, or that it is insolvent, or that it has returned a false report, he takes charge of the affairs of the institution until a receiver is appointed (111, 10). A banking institution may voluntarily put its affairs and assets under the control of the commissioner. He has complete control until a receiver is appointed (111, 13). When the commissioner has taken charge of the affairs of a banking institution, under any circumstances, he must apply to the proper court for the appointment of a receiver as soon as possible (111, 14). If the commissioner finds, after taking control, that the institution is only temporarily embarrassed, or that whatever impairment there has been will be made good, etc., he may refrain from applying to the court for a receiver and allow the bank, upon arranging its affairs with its creditors, to resume business within sixty days (111, 15). If a bank exceeds the prescribed loan limit, the commissioner may order the excess reduced within sixty days (111, 30).

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REPORTS.

Every banking institution makes to the commissioner not less than three reports a year in the form he prescribes, exhibiting in detail the resources and liabilities of the bank at the close of business on a past day specified by the commissioner. The day must be the same as that upon which national banks make their reports. Within ten days after the request of the commissioner, the reports must be transmitted to him; and they must be published in a local newspaper. Special reports may be called for by the commissioner when necessary, but need not be published (111, 17). Receivers of insolvent banks report as the institutions themselves would (111, 11).

The commissioner makes a report to the governor every other year, giving details of each institution reporting to him, general statistics, and such other information concerning the banking situation in the state as he thinks necessary (111, 23).

Banking associations and trust companies make certain reports to the assessor for purposes of taxation (3927*m*).

EXAMINATIONS.

At least twice a year, and oftener if the commissioner deems it advisable, he or his deputy examines the cash, bills, collaterals, books, documents, assets, liabilities, and other affairs of each banking institution and the methods it employs (111, 6). Whenever the commissioner has reason to believe that the capital of a banking institution is impaired, he must make an examination of the affairs of the institution (111, 8). The commissioner examines corporations in the hands of a receiver once every six months (111, 11).

Before beginning business, banking institutions are examined by the commissioner to determine if they are solvent and if they have the required capital (111, 20).

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V.—Discount and Loan Restrictions.

The total liability to any banking institution of one person, firm, or corporation for money borrowed, including in company or firm liabilities those of the members, must not exceed 20 per cent of the capital and surplus of the bank; but the discount of bills of exchange, loans on produce in transit or on warehouse receipts, etc., or on collateral having a market value in excess of the loan (this last exception renders the restriction on individual liability easily avoided), and the discount of commercial paper generally, are not considered as money borrowed (111, 30). No director or officer may borrow over 10 per cent of the capital and surplus of the lending bank without the consent of a majority of the directors exclusive of the borrower; and all loans to officers must have the consent of the directors (111, 29). It was law before the act of 1907, that no corporation could loan to an officer or director an amount greater than 90 per cent of the stock in the corporation actually owned by the borrower, unless he gave security worth 10 per cent more than the loan (223); but the state bank commissioner considers this provision repealed by the statute of 1907. No banking institution may loan upon its own stock as security unless it is received as collateral or in the collection of previous debts, in which case it must be disposed of as soon as conveniently can be done (111, 28).

Limitations on borrowing power are given under I, *supra*.

VI.—Investments.

Banking institutions must not employ their assets in trade or commerce nor hold real estate except such as they occupy in connection with their banking business, nor may they engage in mining or speculate in unstable

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property. They may hold all kinds of property, including their own stock, which come into their possession as collateral or in the collection of debts, but property so acquired must be disposed of as soon as can conveniently be done (111, 28).

VII.—Overdrafts.

Overdrafts are apparently allowed, for it is provided that in declaring dividends, all "losses, *overdrafts*, and surplus" must be first deducted from earnings (531).

VIII.—Branches.

No banking association or corporation may establish any branch office or agency, or employ an agent to make loans or discounts at any place other than the banking house of the association (531).

X.—Unauthorized Banking.

It is unlawful for any individual, firm, or corporation except national banks to do a banking business, or advertise as though they did a banking business, or use such words as "bank," "banking," or "trust company" without complying with the provisions of the statute. Violation of this provision is a misdemeanor entailing imprisonment for not over one year, or a fine of not over $1,000 or both (111, 34). Individuals and firms doing banking business under the statute are not allowed to use the word "State" as part of the bank or firm name (111, 21).

XI.—Penalties.

The director or officer of any banking institution who receives deposits, knowing the institution is insolvent, is guilty of larceny, for which the punishment is fine not

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exceeding $5,000, imprisonment not exceeding five years, or both (222 and 111, 31). If any officer of a bank takes compensation for inducing the bank to make a loan he is guilty of a misdemeanor, punishable by a fine of not over $1,000, imprisonment for not more than twelve months, or both (111, 32).

If the commissioner or one of his employees discloses information which he should keep secret he forfeits his office and is fined from $500 to $1,000, or imprisoned from six months to two years, or suffers both penalties (111, 4). Any official making an examination who reports fraudulently in order to aid an insolvent institution or to injure an institution, or any official making examination who takes a bribe for any purpose or neglects to examine an institution by reason of having taken a bribe is guilty of a felony, punishable by imprisonment for from two to ten years (111, 6).

Institutions which fail to report are subject to a penalty of $25 a day during the delay (111, 18). Receivers who fail to report or submit to examination suffer the same penalties (111, 11). The executive officers of banking institutions who fail to file bonds are subject to the penalties provided for failure to make reports (111, 39).

For penalties upon bank officials who fraudulently issue or transfer stock see 1389 and 1390. Any person who, with intent to defraud, gives a check on a bank in which he has not sufficient funds is guilty of a misdemeanor, punishable by a fine of not less than $200 nor more than $1,000, or imprisonment for not less than three months nor more than one year, or both (1397).

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BANKS.

I.—Terms of Incorporation.

The required capital for banks of discount and deposit is as follows: In cities and towns having a population of 2,000 or less, at least $10,000; in those of from 2,000 to 5,000, at least $15,000; in those of from 5,000 to 10,000, at least $25,000; in those of over 10,000, at least $30,000. At least 50 per cent of the capital must be paid in in cash before business is begun, and the whole capital must be paid in in cash within a year (1907, chap. 140). Unincorporated banking businesses must have a capital of at least $10,000 (111, 20).

The directors of every bank declare semiannually dividends of so much of the net profits as they deem expedient (516).

Possibly banks may have a savings department, for it is provided that "any savings bank or banking association formed under the provisions of this act" must hold a certain per cent of its savings deposits by way of reserve (526).

II.—Liabilities and Duties of Directors.

There must be not more than nine directors (512). If they willfully violate any of the provisions of the banking act in the general statutes they become personally liable for all the debts of the bank contracted previous to and during the period of their neglect (517).

III.—Supervision.

The provision of section 516, that a report be submitted to the state treasurer immediately after the declaration of a dividend and that it be published seems repealed by 111, 17.

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IV.—Reserve Requirements.

If a bank has a savings department it must keep at its own bank or on deposit subject to call at least 20 per cent of the savings deposits (526).

V.—Discount and Loan Restrictions.

It is provided in chapter 140 of 1907, possibly in conflict with 111, 28, which applies to all banking institutions and is given above under General Provisions, V, that no bank shall take as security for any loan or discount a lien on any part of its capital stock. The same security is required from shareholders as from persons not shareholders (1907, chap. 140).

The stockholders collectively of any bank must never be liable to the bank to an amount greater than two-fifths of the capital (519).

VI.—Investments.

A bank may hold real estate only when necessary for its accommodation in the transaction of its business; when mortgaged to it in good faith for previously made loans; when conveyed to satisfy previous debts; and when purchased under judgments or mortgages held by the bank, but in this last situation the bank must not bid a larger amount than is necessary to satisfy the debt and cost (514).

It is provided in chapter 140 of 1907, possibly in conflict with the provision applicable to all banking institutions in section 28 of chapter 111, that no bank shall hold any portion of its own stock or of the stock of any other incorporated company unless the purchase is necessary to prevent loss on a debt previously contracted on security which at the time the loan was made was

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thought adequate. Stock so purchased must in no case be held by the bank longer than six months, if it can be sold at par or for what it cost (1907, chap. 140).

SAVINGS BANKS.

I.—Terms of Incorporation.

The capital of a savings bank must be not less than $25,000, paid in in cash (520).

Dividends may be declared out of net profits (534).

II.—Liabilities and Duties of Directors.

There must be at least three directors, who must be stockholders (521).

IV.—Reserve Requirements.

Every savings bank must keep at its bank or on deposit, subject to call, with some other bank, at least 20 per cent of its savings deposits (526). See, however, the provision of 523, given below under V, which seems to look toward the retention of 50 per cent of deposits in the savings bank itself or on deposit.

V.—Discount and Loan Restrictions.

Savings banks may invest one-half of their deposits on personal security, in securities of Colorado or of the United States, or in bonds of Colorado municipalities, or they may loan these funds on bonds secured by mortgage of unincumbered real estate worth double the loan. The other half of the deposits they may deposit temporarily in other banks, though they must never deposit more than $25,000 in any one bank; or they may keep the whole of this other half to meet current payments, depositing it, or handling it otherwise, as seems convenient (523). No

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savings bank may take as collateral its own stock (526). No officer of a savings bank may borrow from the bank, or be surety for a borrower; nor may a savings bank discount paper of a cashier or clerk in the bank (530).

VI.—Investments.

As stated above, under Loans, savings banks may invest one-half their deposits on personal security, in Colorado or United States securities, or in securities issued by municipalities of Colorado (523).

X.—Unauthorized Banking.

Savings bank business may be carried on only by persons organized under Colorado law (528).

TRUST COMPANIES.

I.—Terms of Incorporation.

Under the provisions of the old statute dealing with trust, deposit, and security corporations, a corporation for this purpose had to have a capital of not less than $50,000; $30,000 had to be paid in before business could be done (536). Under the later act providing for "the incorporation and regulation of trust companies," found in Volume III, trust companies are required to have a capital stock of at least $100,000 in cities of the first class and $50,000 in cities of the second class, paid in in cash (544*j*, amd. by 1909, chap. 215). (For classification of cities, see 4482 *et seq.*)

The enumeration of trust company powers does not include except by rather free inference that to do a banking business, and it is provided that trust companies may not do a banking business except in so far as the statutes expressly authorize it (544*c*).

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II.—Liabilities and Duties of Stockholders and Directors.

Section 533, stated under II in General provisions, makes shareholders in trust, deposit, and security associations liable for double the par value of the stock they own. The more recent trust company law makes the stockholders of trust companies individually responsible for debts of their corporation during the time of their being stockholders, "equally and ratably to the extent of their respective shares of stock in such association and in addition thereto" (544*g*).

There must be not less than three directors of a trust, deposit, and security association (540).

V.—Discount and Loan Restrictions.

Trust companies may not loan to their directors or officers nor loan upon the stock of the company (544*f*).

VI.—Investments.

The trust, deposit, and security association law provides that such an association may hold whatever real or personal estate is necessary to carry on its business, as well as the real or personal estate it may think it necessary to acquire in enforcement or settlement of demands arising out of its business transactions (542). That law authorized investment of the capital of such a corporation in good securities; in bonds and mortgages on unincumbered real estate in Colorado; in securities of the States of the United States or of Colorado municipalities (543).

The later trust company law requires that trust funds and investments be separated from assets of the company and investments of them (544*i*). It gives trust companies wide latitude in the investment of trust funds, but

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forbids them to be invested in the stock or bonds of any private incorporated company (544*e*).

X.—UNAUTHORIZED TRUST COMPANY BUSINESS.

The word "trust" must not be used as part of the name of any institution unless it has organized under the trust company laws. The penalty for breach of this rule is found under General provisions (111, 34).

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CONNECTICUT.

Title 24 of the revision of 1902 of the general statutes of Connecticut deals with "Banking institutions." It contains five chapters: No. 199, "State banks and trust companies;" No. 200, "State banks converted into national banking associations;" No. 201, "Savings banks;" No. 202, "Bank commissioners;" and No. 203, "Receivers of banks, savings banks, and trust companies." Inasmuch as banks and trust companies are, as appear from the heading of chapter 199, legislated for together, the Connecticut laws are digested under two heads instead of three. The provisions for supervision are, in so far as they are general and applicable to all three classes of institutions (qualifications of bank commissioners, salaries, etc.), inserted only once—that is, under the first heading. The references, where they are simply numbers in parenthesis, are to sections in the revision of 1902. Where they are to later enactments, they are cited by the year in which they were passed and the chapter in that year's volume of laws. The statutes have been examined through the session of 1907; and one or two minor additions have been made which cover, according to the advice of Mr. Charles H. Noble, bank commissioner, all the legislation affecting the digest passed at the session of 1909, the statutes of which are not, at the time of making this compilation, yet published.

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BANKS AND TRUST COMPANIES.

I.—Terms of Incorporation.

Dividends may be declared only from net profits (3413). Banks and trust companies may conduct savings departments, as appears from the provision requiring them to report savings items and to separate the savings-deposit investments, etc. (1907, 85).

II.—Liabilities and Duties of Stockholders and Directors.

Although there is no provision for stockholders' liability in the chapters applicable to banks, it is a provision of the general corporation act that no stockholder shall be liable for any debt of the corporation after the par value of his stock has been paid (3369).

Three-quarters of the directors of banks and trust companies must be residents of Connecticut (3410). Not more than three officers of any one savings bank may be officers of a bank or trust company; and no cashier of a bank may be treasurer of a savings bank that has over $500,000 deposits (3443). Directors of banks and trust companies must not receive any compensation for indorsing paper discounted by the corporation (3412).

III.—Supervision.

The state officials in charge of banking are two bank commissioners who hold office for four years (3455), and receive a salary of $3,500 each; these and the other salaries of the commissioners' office, are apportioned among the banking institutions of the State (3464; and a 1909 amendment). Officers of banks, savings banks, and trust companies chartered by Connecticut are ineligible to be bank commissioners. If a commissioner becomes interested in

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the business of banking or negotiating loans he forfeits his position. When a commissioner becomes indebted to a bank that bank must notify the governor (3456). The commissioners must not disclose the information they acquire, except as their duties demand (3457). They approve reserve depositaries (3400).

The commissioners apply for the appointment of a receiver in case the reserve of a state bank or trust company falls below 15 per cent and the bank fails for thirty days to make the deficiency good (3400). When the bank commissioners consider the charter of any bank, savings bank, or trust company forfeited, or the public in danger of being defrauded, they may institute proceedings in court for a receivership (3461).

Upon application of the bank commissioners or of the directors of any bank, savings bank, or trust company, a court may make an order restraining the bank from paying out its funds or declaring dividends (3460).

REPORTS.

All banking institutions, immediately after organizing, report the fact of their organization to the bank commissioners (3463).

State banks and trust companies report to the bank commissioners at least five times annually, exhibiting in each report in detail, in a form prescribed by the commissioners, the resources and liabilities of the bank at the close of business on a past day specified by the commissioners; the report must be sent to the commissioners within ten days after they request it and must be published in such form as they prescribe in a local newspaper (3416; and 1903, 167).

Banks and trust companies that conduct savings departments report to the bank commissioners a statement

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of the amount of the deposits and the securities in which they are invested, together with the other information required to be given in their annual statement (1907, 85).

Receivers of banks, savings banks, and trust companies appointed under the provisions of chapter 203 report to the commissioners annually, or oftener if the bank commissioners require, on the state of the bank's affairs (3472).

The commissioners report annually to the governor the condition of all institutions examined by them with such recommendations as they deem proper. They report to the local state's attorney any violation of law (3459).

Banks, national banks, and trust companies are required to file certain annual statements with the tax commissioner showing especially the place of residence of all the stockholders (1905, 54). Section 2332 and following in the Revised Laws cover taxation of banking corporations; incidental to the taxation are the returns to the assessors of towns under section 2336.

EXAMINATIONS.

These are semiannual or more frequent, covering books and papers (3457). Trust companies are specifically made subject to examination by 1903, 167. Special examinations of school fund depositaries are allowed, and also special examinations by the treasurer of the State in case stock in the examined bank or trust company is owned by the State (3405).

Stockholders in a bank or trust company are given authority to examine the books, accounts, securities, and expenditures of their corporation at an annual meeting or at a special meeting called for the purpose by five stockholders owning not less than 100 shares (3406).

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IV.—Reserve Requirements.

Banks and trust companies must maintain a reserve equal to 15 per cent of their aggregate deposits. Not less than four-fifteenths of this reserve must consist of gold and silver coin, the demand obligations of the United States, or national-bank currency, held by the bank in its office; the remainder may consist of balances with reserve agents subject to demand, and of railroad bonds which are legal investments for savings banks. The reserve agents must be members of clearing-house associations of New York, Boston, Philadelphia, Chicago, or Albany, or else be national banks, state banks, or trust companies in New Haven, Bridgeport, or Hartford. Each reserve depositary must be approved by the bank commissioners. The amount of reserve held in the form of railroad bonds must never exceed one-fifth of the whole reserve (3400, amd. by 1909, 40). This provision for reserve does not apply to savings deposits in banks and trust companies (1907, 85).

V.—Discount and Loan Restrictions.

The total liabilities to any bank or trust company of any person, firm, or corporation, including in firm liabilities the liabilities of its members, must not exceed 10 per cent of the amount of the capital of the bank or trust company and its surplus and undivided profits. This restriction, however, is subject to the proviso that the 10 per cent limit of individual loans may be exceeded to a point not over 20 per cent, provided the loans are secured by collateral whose market value exceeds by 20 per cent the liabilities secured. Twenty per cent of capital, surplus, and profits is set as the highest point of a loan to any individual, firm, or company (3402).

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Banks and trust companies may not loan to any director an amount exceeding 5 per cent of capital, surplus, and undivided profits, and the total of debts due from directors must not exceed 20 per cent. It is permitted, however, to exceed the limits thus set if the loans are secured by collateral of a certain market value, etc. (3411).

No bank or trust company may loan or discount on a pledge of its own stock (3401). No bank or trust company may discount negotiable instruments made, accepted, or indorsed by an officer or clerk (3403). No bank or trust company may loan to parties outside Connecticut until the loans and discounts to parties within Connecticut amount to one-half the capital of the corporation (3404).

The provision in the statute prohibiting loans at interest greater than 15 per cent excepts from that prohibition loans by and to national banks, state banks, and trust companies, and excepts also bona fide mortgages of real or personal property (1907, 238).

VI.—Investments.

A bank and trust company to which its own stock has been transferred may cast no vote on it, except that a trust company holding its own stock in trust may vote the stock so held (3407). In the general corporation law it is provided that corporations may hold such stocks and bonds issued by other corporations "as the purpose of the corporation shall require" (3355).

Banks and trust companies are allowed to maintain savings departments, the deposits in which, however, must be invested according to the statutes prescribing investments for deposits in savings banks; investments thus made are for the protection solely of depositors in savings department (1907, 85).

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VIII.—Branches.

Banks and trust companies are prohibited from establishing branches or employing agents to do business in other places than at the home office (3401).

X.—Unauthorized Banking.

Soliciting deposits as a savings bank or using on a sign such words as "bank," "trust," or "savings," or any name indicating that the persons are a bank, savings bank, or trust company is illegal if the users of the word are not entitled to do so under the statute. The penalty for such use must not be more than $1,000. Firms or individuals who deposit a $10,000 bond with the state treasurer or, if they choose, acceptable securities to the same value, may style themselves private bankers (1907, 86).

XI.—Penalties.

There is a general provision that if no other penalty is provided any violation of the law in relation to banks, savings banks, or trust companies shall be a fine of from $100 to $500 (3454).

Banks and trust companies which exceed the loan limit set by section 3402 forfeit $3,000 (3402). Those that violate the provisions against loans to officers forfeit between $500 and $1,000 for each offense (3411). Directors who indorse for a compensation paper discounted by their bank or trust company forfeit between $500 and $1,000 for each offense (3412). Directors voting for illegal dividends forfeit $500 (3413). If a bank or trust company fails to transmit its report to the commissioners it forfeits $10 a day (3416).

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SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks are institutions without capital stock. The net income of any savings bank in excess of one-eighth per cent of its deposits, actually earned during the preceding half year, and only such net income, may be divided semiannually among the depositors. Dividends ordinarily must not exced 4 per cent a year (3440). Savings banks are required to hold a surplus of at least 3 per cent of their deposits as a contingent fund, which must never exceed 10 per cent of the deposits; any surplus beyond that may be divided in sums not less than 1 per cent of deposits (3441).

Directors of savings banks may discriminate in distributing dividends between deposits of $1,000 or less, and those above. Discrimination must not exceed 1 per cent a year, and if it is necessary it must be in favor of the smaller deposits (3442).

II.—Liabilities and Duties of Directors.

Not more than three officers of any one savings bank may be officers of a bank or trust company, and no cashier of a bank may be treasurer of a savings bank that has over $500,000 deposits (3443).

Directors of savings banks appoint annually at least two auditors not interested in the bank, who examine its books, accounts, and securities, and file in the bank office a statement, a copy of which is forwarded annually to the commissioners (3447).

III.—Supervision.

The general provisions concerning the bank commissioners were given under Banks and trust companies.

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The authority of the bank commissioners to apply for restraining orders or institute receivership proceedings is the same as it was under Banks and trust companies (3460 and 3461). They approve of a savings bank's expenditure for a building (3438).

REPORTS.

The treasurer of each savings bank, yearly, or if required by the bank commissioners, oftener, reports its condition to them, giving the par value, cost, and market value of its assets, besides all information required in the annual statements of banks and trust companies (3452). Receivers of savings banks, like receivers of banks and trust companies, report to the bank commissioners (3472). The commissioners receive annually a report of the examination by the two auditors explained above (3447).

Savings banks are also required to report various matters in connection with taxation (2336; 1903, 189; and 1907, 204).

The treasurer of each savings bank reports annually to the comptroller the name of such depositors as have not dealt with their deposits for twenty years. The statement must include the amount credited to such persons. No statement need be made, however, where the depositor is known by the bank to be living. The comptroller communicates this statement to the general assembly (3451).

EXAMINATIONS.

Savings banks are, like banks and trust companies, examined semiannually or oftener by the bank commissioners (3457). There is also an annual examination by two auditors, appointed by the directors (3447).

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V.—Discount, Loan, and Deposit Restrictions.

No savings bank, having more than $25,000 of deposits, may loan on personal security to any one person or company more than 3 per cent of its deposits (3432), nor may a savings bank buy an obligation or loan upon it if only one person or firm is obligated, unless the savings bank takes additional security equivalent to an indorsement (3433).

No officer of a savings bank may borrow or be surety for a loan of any of its funds, nor may he take a fee for procuring a loan from a savings bank or for selling securities to it (3446).

With minor exceptions savings banks may not receive interest at more than 6 per cent (3439).

No individual may deposit more than $1,000 annually in one savings bank (3433).

VI.—Investments.

No savings bank may expend in a building to accommodate its business more than can be taken from the surplus, after allowing for depreciation of securities and the 3 per cent contingent fund; this expenditure is in all cases subject to the approval of the bank commissioners (3438).

The securities in which savings banks may invest their deposits and surplus are, omitting minor distinctions, as follows: First, not exceeding 20 per cent of the deposits and surplus in notes secured by the pledge of stocks or bonds which have paid dividends or interest for two years at not less than 3 per cent, or by the pledge of securities which can be purchased by savings banks; second, not exceeding 20 per cent in notes which are the joint and several obligations of two or more residents of Connecticut; third, in United States bonds,

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the bonds of any New England State, and the bonds of certain other enumerated States; fourth, in the bonds of any New England city, or any city in New York, or certain enumerated cities; fifth, in the obligations of municipalities of Connecticut; sixth, in the stock of a bank or trust company located in Connecticut, New York City, or Boston; seventh, in the bonds of other cities in the States enumerated before, if the city has not less than 20,000 inhabitants, if the amount of its bonds does not exceed 7 per cent of the taxable value of its property, and if the city has not defaulted on its debt within fifteen years; eighth, in the bonds of any railway company in the enumerated States if the bonds are a first mortgage and if they are the only mortgage on some portion of the road; also in the consolidated refunding bonds of Connecticut railways if in all these cases the railroad has paid for five years interest and at least 4 per cent dividends on all its stock and if the stock of the railroad equals at least one-third of the outstanding bond issue; ninth, in the bonds of enumerated railroads if for five years the railroad has paid interest and dividends and if the stock of the railroad equals at least one-third its mortgage debt. All railroad bonds cease to be legal investments for savings banks when the railroad ceases to pay dividends on all its stock. The securities of railroads operated exclusively by electricity and of street railways are not legal investments. All other investments must consist of deposits in banks or trust companies in Connecticut, New York, Massachusetts, or Rhode Island, or of loans secured by mortgage on unencumbered real estate in Connecticut worth double the loan (1905, 231, 184, and 207; 1903, 171).

XI.—Penalties.

The general penalty stated under Banks and trust companies applies to savings banks (3454). The penalty

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for officers who become personally interested in directing savings bank investments is $1,000 (3446). The penalty for failure by the treasurer to report unused accounts is $100 (3451). In case of a violation of the statute, the officials who assent to the violation are liable to the bank for the loss it suffers. They are also subject to fine of not less than $100 or not more than $1,000 (3453).

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DELAWARE.

The banking statutes of this State are extremely meager. In the Revised Code as amended to 1893 (this is the latest revision of the statutes of the State) a chapter (LXXI) is entitled, "Of Banks;" this chapter, with two or three pages of later acts appended to it in the Code, contains little of importance. The subsequent session laws have been examined through those of 1909. In 1903 an act was passed providing for supervision over state banks, savings banks, trust companies, etc. In 1909 branches and reserves were provided for. There is not sufficient separation of the three sorts of business in the statutes to warrant separate headings.

I.—Terms of Incorporation.

Apparently banks in Delaware must still be chartered by special act of legislature, for the general corporation law denies to any corporation created under it the power to carry on the business of discounting bills, notes, or other evidences of debt, receiving deposits of money, etc. (1903, chap. 394, 4).

III.—Supervision.

The insurance commissioner of Delaware has supervision over all banks and trust companies (1903, chap. 330, 1). For the duties he performs as a banking supervisor he receives $500 a year (1903, chap. 330, 21). Whenever it appears to him that it is desirable that proceedings

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should be brought against "state banks, savings banks, trust companies, and safe deposit corporations and other companies engaged in like business or in any manner receiving deposits of money," if the affairs of any corporation of these sorts are in an unsound condition from illegal or unsafe investments, or it appears to him that its liabilities exceed its assets or that it is violating the law or that it is inexpedient for it to continue business, then it is the duty of the insurance commissioner, through the attorney-general, to institute such proceedings against the corporation as the situation requires; if from an examination the commissioner has reason to believe that the corporation is in an unsafe condition, he may take possession of the corporation's property and retain it until a receiver is appointed (1903, chap. 330, 5). He proceeds similarly against any bank or trust company of which the reserve has fallen below the requirement, and which, after thirty days' notice from him, has not made the reserve good. He approves of reserve depositaries (1909, chap. 162).

REPORTS.

The corporations enumerated in the quotation above make to the insurance commissioner not less than two reports each year in the form prescribed by him showing resources and liabilities at the close of business on a past day specified by him; each report is transmitted to him within twenty days after the receipt of his request and an abstract in the form prescribed by him is published in a local newspaper. He may call for special reports when he thinks them necessary for a complete knowledge of the condition of any corporation (1903, chap. 330, 2).

"Every savings bank or other incorporated institution for savings" must annually publish once a week for three

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weeks a statement of its financial condition, presenting the amount and nature of its business during the preceding year, with assets, liabilities, investments, etc. (Laws of Delaware, p. 570).

EXAMINATIONS.

Whenever the insurance commissioner deems it expedient, or at the request of the corporation, he may examine any of those corporations enumerated above under Supervision (1903, chap. 330, 4).

IV.—Reserve Requirements.

Every bank, and every trust company receiving deposits, must, if it does business in a city of over 50,000, keep a reserve equal to 15 per cent of aggregate deposits, exclusive of deposits on which there must be thirty days' notice of withdrawal; one-third of this reserve must be in money, and the part not held in money must be on deposit in a Delaware bank or trust company having a capital of $50,000 and a surplus of $50,000, approved by the commissioner, or on deposit in a bank or trust company approved by him doing business in New York, Philadelphia, or Baltimore. Banks and trust companies doing business elsewhere in the State must keep a reserve equal to 10 per cent of deposits, exclusive of those on which there must be thirty days' notice of withdrawal; the proportion of cash and the designation of depositaries are the same as in the case of corporations located in cities of over 50,000. While the reserve is below the requirement, no new loans or discounts may be made except by discounting sight exchange, and no dividends may be declared (1909, chap. 162).

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VII.—Overdrafts.

Among the items required to be reported by the Farmers' Bank of the State of Delaware, under a special statute, is "overdrafts" (Laws of Delaware, p. 589).

VIII.—Branches.

Branches are allowed only on the approval of the insurance commissioner, who must ascertain that the bank has a paid-in capital of $25,000 for each place of business then established, and for the proposed branch, and a surplus of $25,000 for each place of business then established, and for the proposed branch; this act applies to all corporations "possessing banking powers" (1909, chap. 163).

X.—Unauthorized Banking.

No foreign corporation is deemed to possess the power of discounting bills, notes, or other evidences of debt, of receiving deposits, buying and selling exchange, etc. (1903, chap. 395, 7).

Forming a banking company without incorporation is forbidden, and any person who receives subscriptions to the capital stock of such a company, or subscribes, forfeits $500 to any one who sues, one half to the use of the State (Laws of Delaware, Chap. LXXI, 1). Any members or agents of such an association who loan money on notes or receive money on deposit also forfeit $500 (Laws of Delaware, Chap. LXXI, 2).

XI.—Penalties.

The act placing banks under the supervision of the insurance commissioner provides that failure to report is punishable by a penalty of $100 a day (1903, chap. 330, 2);

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that the making of a report with intent to deceive an examiner is a misdemeanor on the part of the director, officer, or employee who does so (1903, chap. 330, 3); and that any corporation doing business "in contradiction of the provisions herein contained" is liable to a fine of $1,000 (1903, chap. 330, 10). A statute in the amended Code makes it a misdemeanor, punishable by fine, for directors or managers of a bank to be concerned in paper or security on which the bank makes a profit of more than 1 per cent for sixty days; the offending bank forfeits its charter (Laws of Delaware, p. 588). Savings banks which fail to publish the annual reports required suffer a penalty of $200 for each omission (Laws of Delaware, p. 570).

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DISTRICT OF COLUMBIA.

Most of the banking in the District of Columbia is done by national banks or by foreign corporations. No district banks are provided for in the Code; savings banks are briefly treated as to reports and examinations; and only for trust companies is there legislation which is at all comprehensive.

The digest is based upon Treasury Document No. 2505, a pamphlet which reprints the national-bank act and other laws relating to national banks, together with all the provisions of the District Code relating to banking. The pamphlet sets out in full a subchapter of the Code dealing with the organization in the District of corporations of various sorts—manufacturing, agricultural, mining, etc.; savings banks are incorporated under this statute not by virtue of being expressly named in it, but merely because they are not provided for separately. The chapter does provide, however, that "banks of circulation or discount" may not be incorporated under it. The heading "Banks" is, of course, omited in the digest. Citations are to sections in the Code according to the numbering given in the reprint, which, though published in 1908, includes, according to the assurance received by the compiler at the office of the Comptroller of the Currency, all statutes affecting banking in the District passed previous to the end of the first session of the Sixty-first Congress.

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SAVINGS BANKS.

III.—SUPERVISION.

The Comptroller of the Currency exercises supervision over "all savings banks, or savings companies, or trust companies, or other banking institutions, organized under authority of any act of Congress to do business in the District of Columbia, or organized by virtue of the laws of any of the States in this Union, and having an office or banking house located within the District of Columbia where deposits or savings are received." When in his opinion it is necessary he may take possession of such a corporation for the same reasons and in the same manner as is provided with respect to national banks (713).

REPORTS.

The corporations named in the quoted passage in the paragraph above are required to make to the Comptroller all the reports which national banks are required to make, except that banking institutions having offices in foreign countries as well as in the District of Columbia are only required to make these reports semiannually. Reports must be published in Washington newspapers (713). The national-bank requirement is five reports a year showing resources and liabilities on a past day, and special reports when demanded by the Comptroller (R. S., 5211), and a report after each dividend showing its amount, and net earnings not divided (R. S., 5212).

EXAMINATIONS.

The Comptroller of the Currency is authorized, whenever he deems it useful, to cause an examination to be made of any of the corporations mentioned in the quoted passage above (714).

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XI.—Penalties.

The penalty for failure to report is the same as that imposed on national banks for a like offense (713), $100 a day during the delay (R. S., 5213).

TRUST COMPANIES.

I.—Terms of Incorporation.

A corporation may be formed to carry on in the District of Columbia "a safe deposit, trust, loan, and mortgage business," with a capital of at least $1,000,000, and if the company also does a storage business a capital of at least $1,200,000 (715). Trust companies may "accept deposits of money for the purposes designated herein, upon such terms as may be agreed upon from time to time with depositors" (721). Of the capital stock at least 50 per cent must be paid in in cash or by the transfer of assets before business is begun, and within a year after availing itself of the powers given by the statute each company must have its entire capital stock paid in (728). Generally only money may be considered as payment of capital; but in the case of companies existing when the trust-company act was passed, and taking new charters under the statute, the provision given above that assets may be accepted as payment of capital may be taken advantage of with respect to the assets of the old company transferred to the new (735). Shares are of $100 each (729). See below under III the requirement of a deposit of securities before the corporation may "transact the business of a trust company or any business of a fiduciary character" (728 and 719).

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II.—Liabilities and Duties of Stockholders and Directors.

Trust company stockholders are individually liable to the creditors of their company to an amount equal to and in addition to the stock held, for all debts and contracts of the company (734).

There must be from 9 to 30 directors, who must be stockholders and at least one-half of them residents and citizens of the District (736). In case of failure to make the annual report provided for in section 730, the directors are liable for all debts existing at the time of the delinquency and for all that are contracted before the report is made (731). They are liable as guarantors for all debts existing or afterwards contracted, if a dividend is declared which renders the company insolvent or creates a debt against it (739). If liabilities exceed cash value of assets the directors who assent to this condition are personally liable for the excess to the creditors (741).

III.—Supervision.

The Commissioners of the District of Columbia have power to grant or withhold the charter of incorporation (717). Before a corporation is entitled to "transact the business of a trust company, or to become and act as an adminstrator, executor, guardian of the estate of a minor, or undertake any other kindred fiduciary duty," it must deposit in securities with the Comptroller of the Currency an amount equal to one-fourth of its paid-in capital; the Comptroller may call for additional deposits not exceeding one-half the paid-in capital. No corporation may "transact the business of a trust company or any business of a fiduciary character" until it has the Comptroller's certificate, which will not issue unless the required deposit has been made (728 and 719).

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The Comptroller of the Currency has power, when in his opinion it is necessary, to take possession of any trust company, for the same reasons and in the same manner and to the same extent as is provided with respect to national banks (713 and 720).

REPORTS.

Trust companies must report to the Comptroller as national banks do (713 and 720): five times a year, showing resources and liabilities on a past day specified by him, with special reports when he requires them (R. S., 5211), and after each dividend a report of its amount and the amount of net earnings not divided (R. S., 5212). Every trust company must annually, within twenty days after the 1st of January, report to the Comptroller stating amount of capital, proportion paid in, amount of debts, gross earnings for the previous calendar year, and expenses; this report, on which the company's taxes are based, must be published in a local newspaper (730).

EXAMINATIONS.

The Comptroller of the Currency exercises "the same visitorial powers" over trust companies as he does over national banks (720). Trust companies are also mentioned in the section which authorizes the Comptroller, whenever he deems it useful, to cause an examination of savings banks, etc., to be made (714). The practice is to examine trust companies which are in satisfactory condition twice a year.

VI.—INVESTMENTS.

A trust company may hold real estate not exceeding in value $500,000, and such in addition as it may acquire in satisfaction of debts due it under sales, decrees, judgments,

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and mortgages; but it may not hold real estate under foreclosure or real estate purchased to secure debts, for longer than five years (726).

X.—Unauthorized Trust Company Business.

No corporation organized under the laws of any of the States and having its principal place of business in the District may carry on any of the business named in the trust-company chapter without compliance with the provisions of the chapter for the government of corporations formed under it; each officer of an offending corporation is punishable by fine not exceeding $1,000, or imprisonment not exceeding one year, or both (747).

XI.—Penalties.

Failure to report subjects a trust company to the same penalty as is imposed upon national banks for the same offense (720 and 713), $100 a day during the delay (R. S., 5213). See also 732 for false swearing and misappropriation of trust funds.

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FLORIDA.

The General Statutes of Florida include all statutes through the session of 1903, and in an appendix are inserted the acts of 1905. Title 3 of the fourth division of the statutes deals with corporations. In chapter 2 (Corporations for profit) of this title, subchapter 1 contains the special provisions for banking companies. The first eleven articles of this subchapter contain provisions applicable to all banking companies. The twelfth article deals with savings banks exclusively. The only pertinent later statute is found at page 197 of the session laws of 1907. This act also deals generally with banking companies, except in one or two minor provisions. There is no law applicable to trust companies as distinguished from other corporations. The digest is accordingly divided under only two heads, "General provisions," which are applicable to all banks, and "Savings banks." Numbers in parenthesis are citations to the General Statutes of Florida, 1906; citations to the later statute are by its number in the laws of 1907—that is, 92—followed by the section in that law. The digest includes legislation through the session of 1907; and the compiler has been advised by Mr. A. C. Croom, comptroller of the State, that at the 1909 session of the legislature no statutes were passed affecting the matters covered in the digest.

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GENERAL PROVISIONS.

I.—Terms of Incorporation.

Every banking company must have a capital of at least $50,000, except that, with the approval of the comptroller, banks may be organized in cities or towns of not more than 3,000 with a capital of at least $15,000, and, with the approval of the comptroller, they may be organized in cities or towns of not more than 6,000 with a capital of $25,000. The capital must be divided into shares of $100 each. Savings banks are in a measure excepted from this provision—see I, under Savings banks (2697). At least 50 per cent of the capital must be paid in in full before business is begun. The remainder must be paid in in monthly installments of at least 10 per cent of the whole capital (2698).

Dividends may be declared semiannually from net profits. Before declaring a dividend one-tenth of the net profits must be carried to surplus until it amounts to 20 per cent of the capital (2714). The capital must never be impaired either by withdrawing dividends or otherwise (2715).

No banking company may ever become indebted to an amount exceeding its capital stock except on the following sorts of demands: First, money deposited with or collected by the company; second, drafts against money due to the company; third, liabilities to the stockholders for dividends and reserved profits (2712).

Apparently, commercial and savings banking may not be combined, for the application for incorporation must specify whether the business contemplated is "general banking" or "savings banking" (2694).

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II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of every banking company are individually responsible for the debts of the company to the extent of the amount of their stock at par in addition to the amount invested in the shares (2700). If a banking company begins business before authorized by the comptroller, its stockholders are personally liable as partners (2701).

Banking companies must have a board of not fewer than five directors (2704). Each director must be a citizen of the United States, and three-fifths of the directors must be residents of Florida for at least one year before their election and must be residents during their continuance in office. Each director must own at least ten shares of stock (2705). Where directors participate in a violation of law, they become individually liable for all damages which the company, its stockholders, or any other persons may sustain in consequence of the violation (2724).

III.—Supervision.

The real supervision of banks is in the hands of the comptroller; but he has power to employ a discreet and competent person to make examinations. This inspector may not be connected with any banking business (92, sec. 1); he has a salary of $2,000 per year (92, sec. 2).

The comptroller must approve of the organization of banks with a capital less than the regular amount, $50,000 (2697). The comptroller examines the condition of each company before he authorizes it to begin business, with a view especially to ascertaining the amount paid in on its capital, the names and residences of the directors, with the stock they hold, and whether the company has complied with law. If it appears that the organization is for other

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than legal purposes, the comptroller may withhold his certificate (2702). The comptroller approves of bonds in which reserves may be invested (2711).

If he becomes satisfied from the reports furnished him or from other good proof that a banking company is insolvent and is in default, or if the directors of a banking company assent to a violation of any of the provisions of law, the comptroller applies to the courts for the appointment of a receiver (2724). In case reserves are impaired the comptroller notifies the banking company to make good its reserve. If it fails in thirty days, he applies for a receiver (2710); he does so if a banking company holds its own stock over the time allowed (2713); or if its capital stock is impaired, and after notice from him the impairment is not made good within three months nor liquidation begun (2716); or if the capital is impaired by cancellation for unpaid assessments and not increased to the required amount on thirty days' notice (2699); or if any losses or irregularities apparent from an examination are not made good by the directors of the banking company to the satisfaction of the comptroller at once (92, sec. 5); or if a bank fails to pay its examination fees within sixty days after notification of the amount due (92, sec. 6); or if he is dissatisfied with the report of a banking company going into voluntary liquidation (92, sec. 4).

REPORTS.

The statute of 1907 provides that every bank, banker, banking firm, banking company, branch bank, or association doing business in this State, except national banks (this is the phraseology of all the general sections in the act of 1907), must make complete reports to the comptroller whenever and in whatever form he prescribes, and must publish in a local newspaper in January and July of each year a full statement of assets and liabilities (92, sec. 7).

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This act repeals only the laws or parts of laws in conflict with its provisions. It is worth noticing, therefore, that it had been provided in the general statutes that every banking company should make report to the comptroller not more seldom than twice a year, exhibiting its resources and liabilities at the close of business on any day specified by the comptroller, this report to be submitted within five days after receipt of the comptroller's request; also, that the general statutes allowed him to call for special reports, and provided that all banks, bankers, etc., receiving money on deposit should advertise every January in a local newspaper the amount of their capital stock and personal property owned and subject to payment of their liabilities (2718 and 2719).

A receiver, within thirty days after taking charge of the assets of a banking company, must forward to the comptroller a full report of its assets and liabilities, including a list of the stockholders, the number of shares owned by each, the names of the depositors, the amounts of deposits, a list of assets, and such other information as the comptroller requires. From then on the receiver makes monthly reports containing complete details (92, sec. 3). If a banking company goes into voluntary liquidation, it first furnishes the comptroller with a detailed statement of its affairs, following this with a similar detailed statement every month until its liabilities have been settled in full (92, sec. 4).

For the reports required for purposes of taxation, see 435, 437 (including trust companies), and 2720.

EXAMINATIONS.

All bankers, firms, or companies are examined at least once a year by the person appointed by the comptroller. (This is subject to a difference in the case of savings banks.) The examinations may be oftener if they are

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deemed necessary (92, secs. 5 and 6). The person making examination reports in detail to the comptroller the condition of the bank examined (92, sec. 1). There is a preliminary examination before a certificate of incorporation is granted (2702).

IV.—Reserve Requirements.

Every banking company must keep in lawful money of the United States a reserve equal to 20 per cent of its deposits. Three-fifths of this 20 per cent reserve may consist of balances, payable on demand, due from banks in other cities with whom the company keeps its current accounts, or may consist of bonds of the United States, of Florida, or of municipalities of Florida if these bonds are approved by the comptroller. When the reserve falls below 20 per cent, the company must not increase its liabilities except by discounting or buying sight bills of exchange, and must not declare dividends (2710 and 2711).

V.—Discount and Loan Restrictions.

Banking companies may not make any loan or discount on security of shares of their own stock unless it is necessary to prevent loss upon a previous debt; if stock is so acquired it must be gotten rid of within six months (2713).

For restrictions on borrowing, see I, *supra*.

VI.—Investments.

Banking companies may only hold such real estate as is necessary for immediate accommodation in the transaction of business; such as is conveyed in satisfaction of previous debts; and such as is purchased under judgments or mortgages running to the purchaser or is purchased to secure debts due the purchaser (2707).

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No banking company may purchase its own shares unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months (2713).

VIII.—Branches.

Any banking company may establish branches or agencies in any city or town in Florida, the capital being joint and used by the mother bank and the branches in definite proportions. Six months' public notice must be given of the discontinuance of any branch (2709).

X.—Unauthorized Banking.

Banks not organized and doing business under the laws of Florida or under the national banking laws, and "all persons or corporations doing the business of bankers, brokers, or savings institutions," are prohibited from using the word bank or any other title which would imply that they are incorporated banking institutions. Illegal use of words implying that the bank is an incorporated institution under the statute entails a penalty of $50 a day (2728).

XI.—Penalties.

Insolvency, or violation of law, entails forfeiture of all franchises and privileges (2724). Banks failing to report are subject to a penalty of $100 a day during the delay (92, sec. 7).

SAVINGS BANKS.

I.—Terms of Incorporation.

The general amount of capital required of all banking companies is $50,000, but savings banks may be formed with a capital of not less than $20,000. The capital of

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savings banks may be divided into shares of not less than $10 each (2697).

III.—Supervision.

EXAMINATIONS.

Savings banks are examined at least twice a year (92, sec. 6).

V.—Discount, Loan, and Deposit Restrictions.

A committee or board of investment in each savings bank, charged with the duty of investing its funds, is apparently contemplated by the general statutes. No member of this committee or officer whose duty it is to invest the bank's funds may borrow of the savings bank, or become owner of real estate mortgaged to the bank (2735). No savings bank nor any person acting in its behalf may take a consideration of any sort on account of a loan made by the savings bank other than appears on the face of the contract of loan (2736).

Savings banks may receive deposits from any one person until they amount to $2,000, and may allow interest on the deposits until the principal and accrued interest amount to $3,000; this limitation, however, does not apply to deposits by religious and charitable associations (2729).

VI.—Investments.

The capital and deposits of savings banks may be invested only as follows: First, in first mortgages of Florida real estate to an amount not to exceed 60 per cent of the valuation of the real estate. Not more than 75 per cent of the whole amount of deposits may be thus invested, and no loan on mortgage may be made except on the report of two members of the board of investment. Second, in the public funds of the United States, or bonds

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of any State, or securities of any American municipality whose indebtedness does not exceed 5 per cent of the valuation of its property, or in notes of any citizen of Florida with a pledge of the securities just mentioned at no more than their par value. Third, in first-mortgage bonds of any railroad incorporated under the laws of one of the United States and located in that State, if the railroad is in possession of its own road and has paid dividends for two years; or in the first-mortgage bonds of a railroad, so incorporated and located, guaranteed by another such railroad; or in the bonds or notes of a railroad incorporated under Florida law which is unencumbered and has paid 5 per cent dividends for two years; or in the notes of any Florida citizen with a pledge of these securities at no more than 80 per cent of their par value. Fourth, in the stock of any Florida State bank, or any national bank, or in the notes of a Florida citizen with a pledge of these securities at no more than 80 per cent of their market value and not exceeding their par value. Savings banks may deposit sums not exceeding 30 per cent of their deposits on call in Florida banks, national banks, or Florida or United States trust companies; and they may take interest on these deposits. Fifth, in loans on personal notes of depositors secured by the depositor's book; not more than three-fourths of the amount of the deposit may be thus loaned. Sixth, in case the funds of the bank can not be conveniently invested as above provided, then not more than one-third of the funds may be invested in bonds or other personal security payable in a time not less than a year, with two sureties, if the principal and sureties are all citizens of Florida. Seventh, 10 per cent of the deposits of a savings bank, but not more than $25,000, may be invested in a building for its business (2733).

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XI.—Penalties.

The member of the investment committee of a savings bank, or officer in charge of investments, who borrows from the bank or becomes owner of real estate on which the company holds a mortgage, forfeits his office (2735). Whoever violates the provisions of the section forbidding savings banks or persons negotiating for savings banks to take a consideration for procuring a loan from the savings bank is liable to a penalty of from $100 to $1,000 (2736).

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GEORGIA.

The last revision of the laws of Georgia is the Code of 1895. In the Code, beginning at section 1903, is an article, "Banks," many sections of which deal with circulation and have therefore been omitted. A supplement to the Code was published in 1901, including all legislation through the session of 1900; in this are found sections concerned with banks, many of them dealing with circulation, and also a chapter, beginning with section 6458, which is concerned with trust companies. The numbers of the sections in the supplement follow consecutively after those in the third volume of the Code of 1895; moreover, the supplement has a complete index, to the Code as well as to itself, which has been used in preparing the digest. In the later session laws are found a few amendments, culminating in act No. 84 of 1907, which creates a bank bureau, besides legislating on many topics with regard to banks; since this act merely repeals all laws and parts of laws in conflict with its own provisions, it is a matter of some doubt what sections of the Code it supersedes—in clear cases code sections have been omitted. Savings banks are not separately legislated for. Trust companies receiving deposits are, under 1907, No. 84, 8, subject to all laws regulating banks. The session laws have been examined through those of 1908, and the compiler has been assured by Mr.

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J. P. Brown, state bank examiner, that at the 1909 session no laws were passed affecting the matters covered by the digest. In the parentheses in the digest the Roman numeral indicates the volume of the Code, IV being the supplement; the Arabic figures following are sections in the volume given. References to the session laws are by year, number, and section.

BANKS.

I.—Terms of Incorporation.

The minimum capital for banks is $25,000, of which not less than 20 per cent, and in no case less than $15,000, must be paid in in cash before organization (II, 1910).

Dividends may be declared only from net profits (II, 1968); and any shrinkages in capital due to losses are charged to profit and loss, so that notes and bills discounted shown as debts due the bank are live and collectible assets (II, 1917).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are individually liable to the amount unpaid on their shares for all the corporation's debts, and all stockholders, above the face value of the shares they hold, are individually liable to depositors in the bank for all moneys deposited in an amount equal to the face value of the shares (II, 1911).

There must be not fewer than three nor more than fifteen directors, each the holder of one or more shares of stock (1903, No. 446). There must be at least one meeting every three months, and at one meeting every six months the directors must have a thorough examination made;

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they then require that all back debts be collected or well secured and that no debt be held twelve months without interest being paid, or, unless well secured, put in suit or charged off (1907, No. 84, 25).

III.—Supervision.

There is in the department of the treasury a bank bureau charged with supervision of banks and enforcement of banking laws (1907, No. 84, 1). The treasurer of the state is also state bank examiner; he holds office for the same term as his treasurer's term, and receives a salary of $2,500 for being examiner (1907, No. 84, 2). Neither the state bank examiner nor his assistants may be officers or stockholders of banking corporations or firms or be engaged individually in banking business in the United States (1907, No. 84, 7).

Whenever it appears that the capital of a bank or trust company doing business under the banking act has been impaired over 10 per cent, the examiner notifies the corporation to make the impairment good within ninety days (1907, No. 84, 15). If any bank or trust company refuses to comply with requirements of the examiner for thirty days after his demand, it may be proceeded against by the examiner for revocation of its authority to do business (1907, No. 84, 12). The proceedings for forfeiture are begun by the attorney-general at the request of the governor, and if the court decrees the bank's charter to be forfeited, then a receiver may be appointed (1907, No. 84, 13). Any bank doing business under the statute of 1907 may place its affairs voluntarily under the control of the examiner (1907, No. 84, 14). Whenever any officer of a bank refuses to submit to examination, or obstructs examination, a receiver may be appointed (1907, No. 84, 16). If from examination or report it appears that a bank is

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insolvent, it is the duty of the examiner to report the insolvency to the governor, and when ordered by the governor, to take possession of the bank. He then makes a thorough examination, and if satisfied that the bank can not resume business or liquidate its debts, he reports again to the governor, who then institutes, through the attorney-general, proceedings for a receiver. When directed by the governor the state examiner may appoint a special assistant to take charge of the bank until a receiver is appointed, but in no case may this official retain possession of the bank's affairs for longer than sixty days (1907, No. 84, 27).

REPORTS.

Every bank and trust company must make at least four reports a year, and more if called upon by the examiner. The reports must, in the form prescribed by him, show resources and liabilities at the close of business on a past day specified by the examiner; must be sent to him within ten days after receipt of his request; and must be published, as he prescribes, in a local newspaper (1907, No. 84, 10). Receivers report and make publication as the banks themselves would (1907, No. 84, 17), besides making annual returns of receipts and disbursements to court (1907, No. 84, 13). Once a year a list of names and residences of shareholders in every bank, with the number of shares held by each, is transmitted to the examiner (1907, No. 84, 28). The examiner may call for records of meetings of directors (1907, No. 84, 25).

The state treasurer, in his capacity of state bank examiner, makes an annual report to the governor (1907, No. 84, 18), which includes a summary of the condition of banks and trust companies doing a deposit business from which he has had reports, with any other information in relation to these corporations which he thinks may be useful; a statement of banks and trust companies whose business

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has been closed during the year; suggestions for amendments to banking laws; and details of department administration (1907, No. 84, 20). If the governor thinks these reports of sufficient importance he may require them published in newspapers of the State (1907, No. 84, 19). Occasions when the examiner is required to report to the governor the insolvency of individual institutions against whom receivership proceedings are to be brought were stated above (see also 1907, No. 84, 22).

EXAMINATIONS.

The state bank examiner, or his subordinate, visits every bank and trust company twice each year and oftener, if necessary, in order to make a careful examination into its condition (1907, No. 84, 23). It is a provision of the Code, apparently not repealed by the act of 1907, that the examinations must not be at stated times, and must be without warning (II, 1922). He must examine also banks in the hands of receivers once every six months and file the results with the court (1907, No. 84, 17); but the compiler is advised by the state bank examiner that this provision is not enforced, on the theory that the bank in the receiver's hands is actually in the custody of the court appointing him. At a meeting of directors at least once every six months a thorough examination is made by the directors or by an auditor, after which the directors act as stated under II, *supra* (1907, No. 84, 25). The special examinations made to determine the solvency of banks against which receivership proceedings are about to be brought were explained above.

IV.—Reserve Requirements.

"No bank or corporation doing a banking business" may reduce its "cash on hand, including amount due by banks and bankers, and the market value of all stocks

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and bonds actually owned and held below 25 per cent of demand deposits" (II, 1915). This is as near as the statutes come to a reserve requirement.

V.—Discount and Loan Restrictions.

Among the powers given banks is that "to lend money upon personal security or upon pledges of bonds, stocks, or negotiable securities" (II, 1907).

"No bank or corporation doing a banking business" may loan to any one person without ample security more than 10 per cent of its capital and surplus; in this section surplus is to be construed net profits (IV, 6158).

"No bank or corporation doing a banking business" may loan to any officer without good collateral or other ample security, and if such a loan exceeds 10 per cent of the capital it must be approved by a majority of the directors (1905, No. 89). The Criminal Code makes it a misdemeanor for an officer or agent of a bank to borrow money from the bank without permission of a majority of directors (III, 212), or for an officer or agent of a bank to lend money to another officer or agent without permission of a majority of directors (III, 213). In so far as No. 89 of 1905 is in conflict with the two sections of the Criminal Code last cited, it must, as being later legislation, be taken to repeal them.

VI.—Investments.

Every bank may hold "such real and personal property as may be necessary for its uses and business" (II, 1907). Capital stock must not be applied by any bank to the purchase of its own shares (II, 1968).

VIII.—Branches.

Bank is defined to include in certain cases "the parent bank, its branches, if any," etc. (II, 1967). As further evidence that branches are allowed in Georgia, note that

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the bank bureau is created to examine the condition, among other institutions, of all "branch banks" (1907, No. 84, 1).

XI.—PENALTIES.

Every bank or trust company failing to make and publish the regular quarterly or special reports is subject to a penalty of $50 a day (1907, No. 84, 11). Receivers of insolvent banks failing to report or allow examination are subject to the penalties provided for officers or employees of banks (1907, No. 84, 17).

If the state bank examiner or his assistant neglects his duty, makes a false statement, or is guilty of misconduct in office, he loses his office and is guilty of a misdemeanor (1907, No. 84, 32).

It is a misdemeanor for an officer or employee of a bank to certify a check for which no sufficient funds are on deposit (1907, No. 84, 25). It is a misdemeanor for an officer or agent of a bank to borrow money of the bank without permission of a majority of the directors (III, 212), or to lend the money of the bank to another agent or officer without permission of a majority of the directors (III, 213), but see V, *supra*, for the later statute authorizing, under certain restrictions, loans of this sort to be made. The Penal Code also makes the following offenses punishable by imprisonment of from one to ten years: Violation by a bank director or officer of the provisions of the bank's charter (III, 204); fraudulent insolvency in which the president and directors of the bank are implicated (III, 206); receipt of deposits by officers who know their bank to be insolvent (III, 207); and purchase with capital stock of the bank's own shares (III, 211). The following offenses are punishable by imprisonment of from four to ten years: Conveyances, etc., in defraud of creditors by directors or officers of a bank (III, 208); purchase

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by a director, officer, or agent of paper issued by the bank for a less sum than appears due on its face (III, 209); and declaration, in which president or directors are implicated, of a dividend out of any funds except net profits (III, 210).

SAVINGS BANKS.

There is no distinct legislation for savings banks. They are referred to in the trust company provisions, where it is provided that "any savings bank" having a paid-in capital of not less than $100,000, previously incorporated by the legislature, with authority to exercise trust powers, may take advantage of the trust company provisions (IV, 6466); this would imply that savings banks are institutions with capital stock. The only other mention made of them seems to be in section 2391 of volume II of the Code, where it provides that "all the provisions of this article are to apply to all savings institutions which pay interest to depositors and whose deposits are not subject to check." The article referred to is article 8 of chapter 2 of title second; the article is entitled "Corporations created by superior court." Section 2350 of the article, however, declares that the superior courts of Georgia have power to create corporations, except for various purposes, among which is banking.

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies may not receive deposits subject to check on demand, nor may they discount commercial paper, until they have complied with the laws regulating the incorporation of banks; but once those laws have been complied with, trust companies may acquire all rights and privileges and "be subject to the same liabilities and

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restrictions as apply to banks" (IV, 6462). It is similarly provided in the statute of 1907 that a trust company receiving deposits under its charter is subject to the requirements of the state examiner, must make reports, and must conform "to all the laws enacted regulating chartered banks in this State" (1907, No. 84, 8). All the statutes explained under Banks must, therefore, hold good for trust companies that do a banking business.

The capital of a trust company must never exceed $2,000,000 and must be divided into shares of $100 each (IV, 6465). At least $100,000 of capital must have been paid in before business is begun (IV, 6462).

II.—Liabilities and Duties of Stockholders and Directors.

Trust companies doing a banking business are, it appears, subject to the rule for double liability of stockholders.

See also provisions under Banks for directors. It is provided in the trust company provisions that every trust company must have a board of trustees of not less than five nor more than fifteen (IV, 6463).

III.—Supervision.

Trust companies that do a banking business are subject to the same rules for supervision by the examiner, for reports to him, and examinations by him or by his subordinate (1907, No. 84, 8). Several of the sections dealing with supervision include trust companies in terms (1907, Nos. 84, 10, 23, etc.).

IV.—Reserve Requirements.

See the provision given under this head under Banks, the language of which is "bank or corporation doing a banking business" (II, 1915).

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V.—Discount and Loan Restrictions.

Among trust company powers is that "to loan money on real estate or personal securities" (IV, 6461). The prohibition on loans to any one person, unless amply secured, amounting to more than 10 per cent of capital and surplus (see V, Banks), seems applicable to trust companies on the strength of its own language, "bank or corporation doing a banking business" (IV, 6158). The language of the prohibition upon loaning to an officer without good security, and of the requirement that if the loan exceeds 10 per cent of capital it must be approved by a majority of directors, is the same—"bank or corporation doing a banking business" (1905, No. 89). (See also Banks.)

VI.—Investments.

Trust companies may hold all real estate necessary in the transaction of their business or acquired in satisfaction of debts due the corporation under sales, judgments or mortgages or in settlement of debts due the corporation. Trust companies may buy and sell "stocks, bills of exchange, bonds and mortgages, and other securities" (IV, 6461). (See also Banks.)

XI.—Penalties.

See XI, Banks, for penalties upon trust companies doing a banking business. The penalty for failure to report is framed to include trust companies (1907, No. 84, 11). Among the penal provisions, that for receiving deposits while insolvent applies to any bank or "any company or individual doing a banking business in this State" (IV, 207); and the provisions against an officer's or an employee's borrowing or loaning to another officer or employee apply to "any bank or other corporation" (IV, 212 and 213). But see Banks, V, for the limitation on this prohibition enacted by act No. 89 of 1905.

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IDAHO.

The bulk of the statute law of Idaho on banking is in chapter 13, "Banking corporations," of title 4, "Corporations," of the Civil Code of 1908. Chapter 12 of the same title, "Guaranty title and trust companies," contains a few provisions concerned with trust companies, and chapter 13 contains some provisions specifically confined to savings banks; but for the most part chapter 13 is applicable to banks, savings banks, and trust companies. The first section of the chapter (2968) provides for regarding as a bank any person, firm, or corporation, except national banks, having a place of business in Idaho where credits are opened by the deposit or collection of money or currency, subject to be paid upon order, or where money is loaned on stocks, bonds, bullion, or commercial paper, or where stocks, bonds, bullion, or commercial paper are received for discount or sale. Since the provisions of the chapter apply to all who fall within this classification, all the provisions of the statute presented below under the heading "Banks" must be taken to be equally applicable to savings banks and trust companies. Under the headings "Savings banks" and "Trust companies," accordingly, are given only such few provisions as apply to them exclusively. The digest includes all statutes through the session of 1909.

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BANKS.

I.—Terms of Incorporation.

Banking corporations may have departments for both regular banking and savings banking (2991). When a corporation does both regular and savings banking, however, it must account in separate books for each kind of business; and its transactions of a savings character will be governed by the law applicable to savings banks, its business of an ordinary banking nature by the provisions in the statute applicable to that sort of bank (2995).

Corporations, firms, and individuals doing a banking business must have property of a cash value as follows: In communities of less than 2,000, $10,000; 2,000 to 3,000, $20,000; 3,000 to 5,000, $25,000; 5,000 to 10,000, $30,000; 10,000 to 25,000, $50,000; over 25,000, $100,000. This property may be in money, commercial paper, and necessary realty and personalty, which must be unencumbered (2970). Foreign banks to do business in Idaho must maintain at their office capital satisfying the above requirements; they are subject, moreover, to the other provisions of the chapter (2982 and 2983).

At least 50 per cent of the capital of every bank must be paid in before it begins business and the remainder must be paid in monthly installments of 10 per cent of the whole capital until the amount of property paid in satisfies the requirements given above (2973).

Dividends may be declared out of net profits after providing for expenses, but before a dividend is declared not less than one-tenth of the net profits for the preceding dividend period must be carried to surplus until the surplus amounts to 20 per cent of the paid capital (2981).

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II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of banks in addition to the amount invested in their stock are liable to the creditors to an amount equal to the par value of their stock (2979).

Directors, of whom there must be not less than five, must own $500 par value of stock (2970 and 2980).

Directors who permit officers or employees to borrow in an excessive or dishonest manner or in a manner that entails risk of loss are liable individually for the damage suffered in consequence by the corporation or any person (2989).

III.—Supervision.

The bank commissioner is the state official overseeing banking. His term is four years; he must have had at least five years' practical experience in banking business or have served for five years in the banking department of some State. He must have no interest in any bank in Idaho (189). His salary is $2,400 a year (192). Neither he nor his assistants may disclose information obtained in the business of the department except in the course of their duty (3008).

Whenever it appears from a report or an examination that a bank's capital is impaired the commissioner requires the bank to make good the deficiency. If this is not done, or if the bank, when given notice of a violation of law, does not discontinue the violation, or if the commissioner has cause to consider the bank insolvent, he applies to the court for a receiver (3004 and 3005).

Reports.

Banks report at least twice a year to the bank commissioner in the form prescribed by him, exhibiting in detail the resources and liabilities of the bank on some

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past day specified by the commissioner. The report must be transmitted to the commissioner within ten days of the receipt of his request for it. An abstract of this report must be published within thirty days in a local newspaper. The commissioner may call for special reports when he thinks them necessary, but not more than three each year (2999).

Every other year every institution in which deposits are made makes a statement to the bank commissioner showing deposits that have been dormant for ten years, the amount of each deposit of this sort, the residence of the depositor, and the date of his death, if that is known. Notices of these deposits must be published in local newspapers. If the depositor is known by the president of the bank to be living, or if the deposit is of less than $50, no report of it need be made to the commissioner. The material in these reports of unclaimed deposits must appear in the bank commissioner's report (2997).

Banks and trust companies may become depositaries of county or state funds. When serving in that capacity they are required to make monthly reports to the state and county financial officials (127–136; and 2013–2022).

The bank commissioner files the reports, furnishes blank forms for them, and reports annually to the governor, with a copy of the published abstract of the last report of each bank, with a statement of all proceedings of his, with a general outline of the condition of banking business in the State, and with such other matters as he thinks the public are interested in (3000).

EXAMINATIONS.

The bank commissioner examines the condition of each bank before giving it a certificate to do business (2975). When he deems it necessary, and at least annually, the bank commissioner visits all banks without notice. He

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examines the affairs of each bank and makes a complete report of it (3001).

IV.—Reserve Requirements.

Reserves must be not less than fifteen per cent of demand liabilities, but of this fifteen per cent one-half may consist of balances due "from good solvent banks" (2998).

V.—Discount and Loan Restrictions.

The liabilities to a bank of one person, firm, or corporation, including in the liability of a corporation or firm the liabilities of its members, must never exceed 25 per cent of the capital, surplus, and undivided profits of the bank, but discount of commercial paper is not considered as lending money for this purpose, nor is a loan counted, where securities representing actual value, real estate, warehouse receipts, bills of lading, etc., have been hypothecated (2987).

Firms and individuals may not carry as an asset the obligation of the firm or individual or a member of the firm. No employee of a banking corporation may loan to himself any of the bank funds without the approval of a majority of the directors (2989).

See VI, below, for the restriction upon a bank's taking its own stock as collateral (2976).

VI.—Investments.

Banks may purchase real estate only for the following purposes: First, necessary business use, but real estate held for this purpose must not exceed 50 per cent of capital, surplus, and undivided profits; second, real estate received in satisfaction of previously contracted debts; third, real estate purchased by the bank at sale under judgments or mortgage foreclosures where the bank was holder of the lien as security (2978).

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No bank may accept as collateral or purchase its own capital stock, except when the transaction is necessary to prevent loss on a previous debt; and in that case the stock must be sold within twelve months (2976).

XI.—Penalties.

The following are misdemeanors: Failure by the president of a banking institution to report unclaimed deposits (2997); wilful overdraft by an employee of a savings bank (7118); receipt of deposits with knowledge of the insolvency of the depositary (7119).

The following are felonies by the bank commissioner: Malicious institution of proceedings, or institution without reasonable cause; for this the commissioner answers to the bank for damages and is also punishable by fine not over $1,000, imprisonment not over two years, or both (3005): disclosure of official information by the commissioner or an assistant; for this the penalty is forfeiture of office and a fine of not over $1,000 with imprisonment until it is paid (3008).

Wilful certification of a check for which no funds are on deposit entails a fine of $1,000 (2988).

Foreign corporations and their employees who violate the statute forfeit $1,000 in addition to the regular penalties (2984).

Penalty for fraudulent receipt by the owner or officer of a bank of deposit with knowledge that the bank is insolvent is $1,000 fine, imprisonment not exceeding two years, or both (2985).

SAVINGS BANKS.

VI.—Investments.

Savings banks or other institutions with savings departments may invest their capital and the money deposited only as follows: First, in securities of the United States;

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second, in securities of Idaho; third, in securities of municipalities of Idaho, but not more than 50 per cent of the assets of any savings bank may be securities of any one municipality; fourth, in securities of any State or any city of any State that has not for three years before the investment defaulted on any interest payment, but not more than 50 per cent of the assets of any savings bank may be invested in securities of any one State, or of any municipality outside Idaho; fifth, in mortgages on unincumbered real estate worth double the loan; sixth, in real estate, subject to the other provisions of the statute on that topic, but no savings bank may have more than 50 per cent of its capital invested in the lot and building in which it does business; seventh, in dealing in exchange by purchasing and selling sight and time drafts and notes; eighth, awaiting opportunity to invest, the deposits may be loaned on well-secured commercial paper, stocks, and other securities, but the loan must not exceed 80 per cent of the market value of the security (2992).

TRUST COMPANIES.

I.—Terms of Incorporation.

Guaranty, title, and trust companies must have a paid-up capital of not less than $25,000 (2963).

VI.—Investments.

Guaranty, title, and trust companies may hold in trust and as security estate, real and personal, including the obligations of corporations. They may invest their funds in the purchase of real and personal securities and may loan money on real and personal security; they may purchase and sell real estate (2961).

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ILLINOIS.

In the Revised Statutes of Illinois, 1906, by Hurd, chapter 16*a* is entitled "Banks," although the act which is made into that chapter was entitled "An act concerning corporations with banking powers." Chapter 16*a* was amended by an act found at page 52 of the laws of Illinois for 1907. The digest treats the amendments as though actually incorporated in the chapter, and refers to sections in the chapter simply by their number, since most of the references are within it. In chapter 32, sections 129–147 deal with trust companies; the act embodied in those sections was one "to provide for and regulate the administration of trusts by trust companies." References to these sections and to other sections in the Revised Statutes not in the chapter on banks are by page in the Revised Statutes followed by the number of the section as numbered on that page. The sections dealing with trust companies have not been amended since the Revised Laws were published. There is no special legislation for savings banks; the chapter on banks provides that "all corporations with banking powers" are subject to its provisions, and banks organized under it are allowed to receive savings deposits and to do a trust business. Trust companies, unless organized as banks, may not do a banking business.

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The constitution of the State, Article XI, section 5, provides that all acts authorizing or creating corporations or associations with banking powers, and amendments to such acts, must be approved by a majority of the votes at the popular election following their passage in the legislature. The statutes have been examined through those of 1909.

BANKS.

I.—Terms of Incorporation.

The minimum capital for banks is as follows: In cities or towns of not more than 5,000, $25,000; in those of from 5,000 to 10,000, $50,000; in those of from 10,000 to 50,000, $100,000; in those of 50,000 or more, $200,000 (11). The auditor does not grant his certificate of organization unless the capital stock has all been fully paid in (5). The language of sec. 25*d* on page 671 shows that commercial banks may receive savings deposits; it provides that no "savings bank, individual, or individuals doing banking business, banking company, or incorporated bank receiving savings deposits" may become guarantor. Banks may, upon qualifying under the trust act and making the required deposit, accept and execute trusts (1).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are individually responsible to creditors to an amount equal to the shares held, over and above the stock itself, for all liabilities accruing while they remain stockholders (6, and constitution, Art. XI, sec. 6).

Directors must own at least ten shares of stock. They must hold regular meetings at least as often as monthly (4). If directors participate in illegal loans they become

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personally liable for damages which anyone may suffer by their violation of the statute (10).

III.—Supervision.

There is no special banking supervisor; supervision is in the hands of the auditor of public accounts. He superintends authorization to begin business and may withhold a certificate if he is not satisfied of the personal character of the incorporators, or if he has reason to believe the bank is organized for other than a legal purpose (5). When capital stock becomes impaired, the auditor notifies the bank to make good the impairment. If, after thirty days, this has not been done, he must sue stockholders of the bank for their proportion of the sum necessary to make the impairment good. If it appears from reports or examinations that the impairment can not be made good, or that the bank is conducting business in an unsafe manner, the auditor may at once, through the attorney-general, bring proceedings for a dissolution and the appointment of a receiver (11). The auditor exercises supervision over consolidations and voluntary dissolutions (13 and 15). Examiners may not be financially interested in banks they examine (8).

REPORTS.

At least once every three months (see constitution, Art. XI, sec. 7) the auditor calls for a report, which must be transmitted within five days. It must show the resources and liabilities of the bank before beginning business on the morning of any day the auditor may choose. The report is published in a local newspaper (7). Directors must furnish the auditor with lists of stockholders and copies of any other records he may require (4). Lists of stockholders and transfers must be filed with the local recorder of deeds (6, and constitution, Art. XI, sec. 8).

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Receivers of banks are required to make report generally three times a year to the appointing court (p. 1614, 1 and 2). These reports they must send also to the auditor (11).

(For reports required for purposes of taxation see page 1648, 35 *et seq.*)

EXAMINATIONS.

A thorough examination is made by the auditor or a subordinate before a bank begins business to ascertain that its capital is paid up, etc. (5). Regular examinations are made at least once a year, and oftener if the auditor thinks necessary, by a suitable person appointed by him. This examiner must not be interested in any bank which he is directed to examine (8).

V.—Discount and Loan Restrictions.

The total liabilities to any bank of a person, corporation, or firm for money borrowed, including in corporation or firm liabilities those of the members, must not exceed 15 per cent of capital and 15 per cent of surplus. The total liabilities of any such person, corporation, or firm must not exceed 30 per cent of the paid-in capital. Undivided profits are not to be construed as part of the surplus. Discount of commercial paper is generally not considered as money borrowed. No bank may loan to any of its officers or employees, or to corporations or firms in which they are actively interested, until the loan has been approved by the directors (10).

VI.—Investments.

Banks may hold and carry as assets the necessary real estate in which they do their banking business, and such other real estate as is acquired in the collection of debts,

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but, except that used as a banking house, real estate must not be carried as assets for a longer period than five years (9).

XI.—PENALTIES.

Directors and employees who make false statements in order to deceive examiners are punished by imprisonment of from one to ten years (4). Receipt of deposits with knowledge of a bank's insolvency is embezzlement, punishable by fine of double the amount of the sum embezzled, and in addition imprisonment of from one to three years (p. 670, 25*a*). There is a $100 a day penalty for delay in reporting (7).

SAVINGS BANKS.

The only special provisions for savings banks are in the Criminal Code (p. 671); 25*c*, on that page, provides that no loans may be made by savings banks to their officers, on penalty of forfeiture of charter or fine of twice the amount of the loan, and that the officers receiving the loan be punished as for receipt of money under false pretenses; 25*d* forbids any savings bank to become guarantor on evidences of indebtedness. (Under an opinion of the attorney-general of the State, dated January 5, 1906, 25*c* is inapplicable to banks created under the general banking chapter; since there are no "savings banks" beyond these, the section becomes practically inoperative.)

TRUST COMPANIES.

III.—SUPERVISION.

Trust companies are required to deposit with the auditor, for the benefit of their creditors, securities to amounts varying according to the size of the city (p. 539, 6). When it appears to the auditor from examination or report that a trust company has violated the law

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or is conducting its business unsafely, he must direct the discontinuance of the practices; if the corporation neglects to report or to comply with such an order, or if it appears to the auditor that the corporation should be stopped, or that its depositors' interests are in danger, or that an officer has been guilty of misconduct, or that a serious loss has occurred, he institutes, through the attorney-general, whatever proceedings the case requires (p. 541, 13). If the auditor has evidence that a report is false, he revokes the certificate of authority of the corporation (p. 541, 14).

REPORTS.

Trust companies file with the auditor every January a statement of their condition on December 31 preceding, showing the following items: Assets, including items of real estate; cash on hand and on deposit; cash in the hands of agents; loans on mortgages and bonds constituting a first lien on real estate on which there is less than a year's interest owing, and such loans on which there is more than a year's interest owing; amount due on judgments; stocks and bonds of Illinois, of the United States, of Illinois municipalities, and other stocks and bonds with values; loans on pledge of securities, particularized; and other assets. Liabilities, including capital, surplus, undivided profits and deposits; an account of trusts held; and such other information as the auditor requires (p. 540, 9). The auditor causes an abstract of this annual report to be published in a Springfield newspaper and in a local newspaper (p. 541, 16). The auditor may address any inquiries or ask for any reports; the companies must act promptly on such requests (p. 540, 11). Every two years the auditor embodies in his report to the legislature the result of examinations of trust companies (p. 540, 12).

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EXAMINATIONS.

The auditor, personally or by an examiner, investigates the affairs of every trust company annually or, if he thinks necessary, oftener. Inquiry is made as to the condition of resources of the corporation; how it conducts its business; its investments; its safety and prudence; security given; its obligations; and its compliance with law (p. 540, 12).

V.—DISCOUNT, LOAN, AND DEPOSIT RESTRICTIONS.

The amount of money which any trust company may have on deposit at one time must not exceed ten times its capital and surplus, nor may its outstanding loans at any time exceed that amount (p. 539, 3).

XI.—PENALTIES.

Any violation of the act dealing with trust companies subjects the offender to a penalty of $500 for each offense, and the additional sum of $100 a day is forfeited for failure to file a report (p. 541, 15).

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INDIANA.

All the Indiana statutes, except acts passed at a special session in 1908 and at the regular session of 1909, during which two sessions there was no legislation affecting banks, are in Burns' Annotated Indiana Statutes, revision of 1908. Chapter 15, "Banks," is divided into four articles: Article I, "Banks of discount and deposit;" Article II, "Savings banks;" Article III, "Private banks," and Article IV, "Bank examiners." Chapter 37 is entitled "Corporations—Loan and deposit companies;" the provisions of this chapter, however, deal in terms with "loan and trust and safe deposit companies." The article on private bankers is summarized briefly in a paragraph at the end of "Banks." All the references in the digest are to sections in the revision of 1908.

BANKS.

I.—Terms of Incorporation.

Banks are given power to act as trustee (3332), but the statutes seem silent on the question whether banks of discount and deposit may receive savings deposits. There is no requirement that commercial banks receiving interest-bearing deposits should handle them subject to savings-bank rules, as trust companies which receive savings deposits are required to do.

Banks must have a capital of not less than $25,000, divided into shares of $100 each (3329). Banks must

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not do business until 50 per cent of the capital has been actually paid in; the rest must be paid within six months (3332 and 3335).

Ten per cent of the annual net profits of every bank must be set apart by the directors as a surplus fund until it amounts to 25 per cent of the capital. Dividends may be declared semiannually out of net profits, but no capital may be withdrawn (3337).

II.—Liabilities and Duties of Stockholders and Directors.

Shareholders in a bank are individually responsible to an amount above their stock, equal to its par value, for all liabilities of the bank (3337, and constitution, Art. XI, sec. 6).

Directors must each own at least five shares of stock (3334). There must be not less than three nor more than nine directors (3343). They must meet at least once a month (3333).

III.—Supervision.

There is no official in charge merely of banking. The state auditor performs that duty, assisted by four examiners whose appointment is provided for in the statutes (3418 *et seq.*). No examiner may disclose, outside of his duty, the names of depositors, amounts on deposit, or other information concerning private accounts of depositors in banks, savings banks, or trust companies (3422); nor may any examiner be a director or other officer in an association he examines (3346).

When the auditor has reason to believe that the capital stock of any bank is impaired, he requires the deficiency to be made good. If the bank does not make the impairment good within sixty days by assessment or sale of stock, the auditor reports to the attorney-general, who

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institutes proceedings to wind up the bank (3341). If it appears from an examination that a bank is insolvent, or that its assets are being improperly used, the auditor directs the examiner who has reported the insolvency, or some other appointee, to take charge of the affairs of the bank; and he proceeds in court for a receiver. If a bank fails or suspends between periods of examination, the auditor proceeds similarly. Failure to pay an assessment for an examination is cause for the appointment of a receiver (3346 and 3419).

REPORTS.

A statement of each bank's financial condition is annually published for two weeks in a local newspaper (3344). Not less than five regular reports are made every year, according to the form prescribed by the auditor, exhibiting the resources and liabilities of the bank at the close of business on a past day specified by the auditor. The report must be sent to him within five days after receipt of his request. The report is published in a local newspaper. Special reports may be called for whenever the auditor desires (3347). Banks in the hands of a receiver report as solvent banks do (3346 and 3419). For statements required for purposes of taxation see 10210.

EXAMINATIONS.

One of the examiners appointed by the auditor examines each bank as often as is deemed necessary. The examiners report to the auditor, especially in case the bank is in such condition that he should proceed against it, as stated above (3346 and 3419). Banks in the hands of receivers are subject to the same examinations (3346 and 3419). The auditor examines the affairs of a bank before it is allowed to reduce its capital stock (3336).

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V.—Discount and Loan Restrictions.

It is a felony for a director or employee of a bank to borrow the bank's funds without the consent of the directors (2296).

VI.—Investments.

Banks may hold such real estate as is necessary for their accommodation in business; such as is mortgaged to them; such as is conveyed to them in satisfaction of previous debts; and such as they purchase under judgments or mortgages to secure debts due them. Except the real estate necessary for their accommodation, banks must get rid of what they purchase within five years (3340).

VII.—Overdrafts.

Directors, employees, etc., of banks who knowingly overdraw their accounts without the written consent of the directors being indorsed on the check are guilty of a felony (2295).

VIII.—Branches.

The legislature has power to charter "a bank with branches" (constitution, Art. XI, sec. 4), but under the banking chapter, the articles of association of each bank of discount and deposit must state "the place where it is to be located," etc., indicating that a single office was contemplated (3329).

XI.—Penalties.

Receipt of deposits or other things of value during insolvency is embezzlement, punishable by a fine of double the value of the receipt, imprisonment of from two to fourteen years, disfranchisement, and forfeiture of the right to hold any office of trust or profit for any determi-

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nate period (2294). Overdrafts by an officer without the consent of the directors is a felony, punishable by imprisonment for from two to fourteen years, and fine of double the amount of the overdraft (2295). The director or officer who borrows funds of the bank without the consent of the board of directors is guilty of a felony, punishable by imprisonment of from two to fourteen years, and fine of double the amount of the loan (2296).

A bank that fails to transmit a regular or special report to the auditor suffers a penalty of $100 a day (3347). The penalty for failure by the president and cashier of a bank to publish annually for two weeks in a local newspaper a statement of the bank's condition is a fine of from $25 to $1,000 (3345).

The examiner who discloses information had upon examination is guilty of a misdemeanor, punishable by fine of not more than $100.

PRIVATE BANKS.

Capital.—Partnerships and individuals transacting a banking business, or advertising as bankers, must have at least $10,000 of cash capital, invested in well-secured notes, in state or municipal bonds, or in bank building and furniture (3403). An individual or a partnership must issue certificates of stock to the individual, or the members of the firm, as though the organization were a corporation (3405). Individual bankers must be residents of the State (3404). *Supervision.*—Partnerships and individuals must make to the auditor two reports a year, according to the forms he prescribes, showing in detail resources and liabilities at the close of business on a past day specified by the auditor. They must transmit the report within five days after receipt of his request. Reports are published in a local newspaper in a form

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similar to reports of incorporated banks. The auditor may call for special reports (3408). Once in twelve months, or oftener if necessary, examiners make an examination of each private bank. If it is found to be insolvent, or if its assets are being reduced, the examiner notifies the auditor, who may thereupon direct the examiner or some other appointee to take charge of the bank, pending the appointment of a receiver. Failure between periods of examinations, or suspension, is also cause for putting the bank into the hands of an appointee of the auditor, pending the appointment of a receiver. If a bank fails to pay an assessment for an examination, it may be put into the hands of a receiver (3409). *Loans.*—No private bank may loan to any of its officers an amount exceeding 30 per cent of its capital (3414). *Investments.*—Not more than one-third of the capital may be invested in real estate, except such as is taken in settlement of debts or purchased at judicial sales (3403). *Penalties.*—Failure to report within five days from the request entails a penalty of not less than $100 nor more than $500 (3408). There is a general penalty for violation of the provisions dealing with private banks, which is a fine of not over $1,000, with imprisonment for not longer than two years for a second offense (3410). The penal provision for receipt of deposits during insolvency applies to individual bankers (2294).

SAVINGS BANKS.

I.—Terms of Incorporation.

The incorporators of a savings bank must be voters of Indiana, citizens of the county where they reside for at least five years, and severally owners of unincumbered realty in the county worth at least $5,000 (3348). Apparently, the statutes contemplate associations without capital

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stock (3349). A local judge must, after diligent inquiry, be satisfied of the qualifications of the incorporators as suitable men to conduct a savings bank (3350).

The trustees of every savings bank must set aside every year from gross gains not less than one-half of 1 per cent, nor more than 3 per cent, of the deposits, as a surplus fund, until this fund equals 10 per cent of the deposits. The surplus may accumulate, if the bank desires it, until equal to 25 per cent of the deposits (3375 and 3381).

Dividends must not be declared except from profits (3377). No dividends are declared on deposits of over $5,000 (3379). The trustees may discriminate so as to give to deposits under $1,000 a higher interest than to those over $1,000, and so as to give higher dividends to depositors who leave their deposits undiminished (3380). After expenses and surplus contributions have been deducted from profits, all that remains must be, so far as is practicable, divided among depositors (3381). If any residue is still undistributed it must be divided among depositors at least once in every three years as equitably as possible, as the trustees direct (3382).

II.—Liabilities and Duties of Trustees.

Trustees must meet at least every three months (3360). A local judge must certify to their fitness for the position (3355). If a trustee of a savings bank neglects his duties, or borrows from the corporation, or misses meetings for nine months, he forfeits his position (3353). Trustees must not receive pay unless they are engaged in work which requires their regular and faithful attendance at the bank, in which case the salary is voted by the trustees, exclusive of the one interested (3362 and 3396). Also after a savings bank has accumulated a surplus of not less than 5 per cent of its deposits, it may pay the trustees who render special personal service a compensation determined upon by the trustees

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and approved by the auditor. Interested trustees do not vote. This special pay must not be granted if the surplus is impaired (3397). When a savings bank has accumulated a surplus of 15 per cent of its deposits it may pay trustees who have attended every regular meeting during the year a gratuity of not more than $3 a meeting (3398). If a trustee or other officer of a savings bank, by his misconduct, wastes the bank's assets, he is responsible for the losses to the depositors and other creditors (3401).

III.—Supervision.

As before, the auditor is general supervisor. He appoints examiners as subordinates, who must not disclose the information they obtain in examinations (3418 and 3422). The qualifications of incorporators of a savings bank must be inquired into by a local judge. They must appear trustworthy to him, or he will not go through the necessary preliminaries to their getting a certificate (3350). When extra compensation is given officers and trustees of savings banks, the auditor must approve (3396 and 3397). The auditor passes upon the necessity of extending the time for notice of withdrawal of deposits (3364) and also passes on the cost of the savings bank's building (3372); he may suspend savings bank trustees (3383), subject to the later action of a court (3385).

Whenever a savings bank fails for thirty days to pay its depositors, or when it appears to the satisfaction of the auditor that its business is being mismanaged, and that it is insolvent or in danger of insolvency, then it is the duty of the auditor to institute proceedings for a dissolution. The court applied to may decree a receivership (3401).

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REPORTS.

Savings banks make an annual report to the auditor of their condition on January 1, after the dividend of that day has been allowed (3387). In this report the total amount of assets are stated: The amount loaned on notes, bonds, and mortgages; interest on loans; value and rate of interest on all stock investments; stock investments, the interest on which is in arrears; bonds, notes, and mortgages, the interest on which is in arrears; bank stock held by a savings bank; commercial paper held; real estate held, and its value; income derived from real estate; cash on hand or on deposit; names of depositaries and interest received; average monthly balances on deposit in banks; and any other items of assets. Also liabilities, including amounts due depositors, dividends, and any other debts which may become a charge upon assets. Also the number of open accounts; amounts deposited and amounts withdrawn during the year; whole amount of interest earned; expenses; new accounts opened and accounts closed (3388 and 3389). The auditor prescribes the form and may call for other items (3390). In years when the legislature is in session the auditor reports to the legislature the condition of every savings bank from which he has received a report in two years; he may suggest amendments to the savings bank law (3393).

EXAMINATIONS.

One of the examiners, as often as is necessary, and at least every other year, visits every savings bank without giving it warning of the examination (3394 and 3420). No compensation may be voted to a trustee of a savings bank until the auditor has caused an examination of its affairs to be made, showing that the required surplus has been accumulated (3397). The trustees of every savings

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bank, by a committee of not less than three of them, examine its affairs yearly as a preliminary to rendering the report to the auditor (3395).

IV.—Reserve Requirements.

The trustees may keep in reserve not more than 20 per cent of total deposits without investment, or they may deposit that amount on call with or without interest, in an Indiana bank or a national bank (3369).

V.—Discount, Loan, and Deposit Restrictions.

No trustee or officer of a savings bank may borrow any of the funds of the bank, nor may a trustee or officer indorse loans to others, so as to become in any way an obligor on a loan by the savings bank. No trustee or officer may receive any commission for procuring a loan from the bank (3362). Pending an opportunity to invest, loans may be made on stocks and securities which are a proper investment, if the loan is of not more than 90 per cent of the cash value of the securities (3367). Loans may not be made on security of real estate or on notes or bills without the consent of a majority of the trustees or the unanimous consent of the investment committee (3370). (See other loan restrictions inserted under VI because so classified in the statute.)

Savings banks need not receive sums less than $1 or exceeding $500 in any one year from any one depositor (3363). Savings banks may require, as is usually provided in savings bank statutes, certain notice of withdrawal of deposits. There is the unusual provision here, however, that, with the consent of the auditor, if it is necessary to prevent a run, savings banks may require any time not exceeding six months as notice of withdrawal (3364).

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VI.—Investments.

A savings bank may hold such real estate as is requisite for the transaction of its business, and from a portion of this it may receive an income, such as is mortgaged to the savings bank, and such as it purchases at judicial sales on claims in favor of the savings bank, or purchases to prevent loss on debts due it (3371). The banking house must not cost more than 5 per cent of the amount of the deposits of the savings bank, and the estimates for it must be approved by the auditor (3372). Except its banking house, every savings bank must, as a rule, dispose of its real estate within three years after acquiring it (3373). There is a prohibition on trade and commerce (3374).

Investments for savings banks are as follows: First, securities of the United States; second, securities of Indiana; third, securities of municipalities of Indiana; fourth, securities of any State in the Union that has for five years paid interest regularly; fifth, bonds or notes secured by mortgage of unincumbered realty situated in Indiana, or in a county, in an adjoining State, adjoining the county where the bank is situated, if the real estate is worth twice the loan; sixth, commercial paper payable at an Indiana bank and having not more than twelve months to run, made or indorsed by at least two freeholders, one of whom at least is a resident of Indiana, but no such bill or note may exceed $10,000, and no more than $10,000 may be loaned on the same security; seventh, in real estate subject to the limitations in the preceding paragraph; eighth, in dealing in sight and time exchange, payable outside the State; but no draft may be for more than $10,000, nor may any time draft payable outside the State be purchased which has more than sixty days to run. Moreover, not more than one

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draft may be held by any savings bank at one time, secured by any of the same indorsers (3366). Pending an opportunity for investment, money may be loaned on the stocks and other securities just enumerated, if the loan does not exceed 90 per cent of the market value of the securities (3367). Although 3366 provides that only the securities enumerated are legal investments for savings banks, the list of assets in savings bank reports includes stock in other banks (3388).

XI.—Penalties.

If a savings bank fails to report, the employee whose duty it was to report is fined from $1 to $50 for every day's delay (3392). It seems likely that the penal provisions concerned with receipt of deposits during insolvency, overdrafts by officers, and loans of funds to officers may apply to savings banks. The language of these statutes makes them applicable to persons, firms, corporations, etc., "doing a banking business" (2294, 2295, and 2296, given under Banks, XI).

TRUST COMPANIES.

I.—Terms of Incorporation:

Trust companies may not only do a commercial banking business (4953) but may also apparently receive savings deposits, for it is provided that every loan and trust and safe deposit company which receives savings deposits must do so under the regulations to which savings banks are subject (4962).

The capital stock of corporations organized under the loan and trust and safe deposit company statute must be as follows: In cities of over 50,000, not less than $100,000; in cities of from 25,000 to 50,000, not less than $50,000; in cities of less than 25,000, not less than $25,000. Shares

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are of $100 each. The capital must never exceed $2,000,000 (4944). Business must not be begun until the whole capital, provided it does not exceed $100,000, has been paid in (4948).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are individually liable, in addition to their holdings of stock, in a sum equal to that amount for the payment of any debt of the corporation left unpaid after its assets have been exhausted (4947, and possibly constitution, Article XI, sec. 6).

There must be not less than six directors, a majority of whom must be citizens of the State, and each of whom must own at least ten shares of stock (4949).

III.—Supervision.

The auditor and his examiners (see Banks, III) have supervision of trust companies. If it appears from examinations that a trust company has violated the law, or is conducting its business unsafely, or is insolvent, the auditor directs a discontinuance of the unsafe or illegal practices. If the trust company fails to report after ten days' notice, or to comply with an order, or if it appears to him that the corporation should stop transacting business, or that it is insolvent, then the auditor institutes, through the local prosecuting attorney, such proceedings as he institutes against an insolvent corporation (4959).

Reports.

Every year each trust company reports a detailed account of its condition on or before April 1 to the auditor, and publishes a condensed statement of such account in a local newspaper. Statements must be rendered also to

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courts that appoint the company to a fiduciary position (4957). For tax reports see 10210.

EXAMINATIONS.

These are made by an examiner, without notice to the company, as often as is necessary, and at least once every six months (3421 and 4958). The auditor also causes an examination to be made when the capital stock is reduced (4945).

V.—DISCOUNT AND LOAN RESTRICTIONS.

Directors, officers, and employees of a trust company are forbidden to become in any manner indebted to the trust company (4956 and 2997).

VI.—INVESTMENTS.

A trust company may hold such real and personal property as is necessary for the convenient transaction of its business; real estate acquired on foreclosure sale or in settlement of an obligation may be held for the best interests of the company; the company may purchase at foreclosure or judgment sale (4953). There is a provision against engaging in commerce, manufacture, etc. (4956).

VII.—OVERDRAFTS.

In forbidding directors, officers, and employees to become indebted to their trust company, the enumeration of the possible ways in which they may become indebted includes "by means of any overdraft" (4956).

X.—UNAUTHORIZED BANKING.

All persons and corporations not organized under the trust-company law are prohibited from using the word "trust" in their name. The penalty for violation is $50 a day while the word is used (4960).

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XI.—Penalties.

Directors or officers of a loan and trust and safe deposit company who loan its funds to any director or officer and any director or officer who borrows from the company are guilty of a misdemeanor, punishable by a fine of not less than $100 nor more than $500 and imprisonment of not less than thirty days nor more than six months (2297). Trust company directors who loan the company's funds to a director, and also the borrowing director himself, are guilty of a misdemeanor (2297). The fact that this penal provision, directly following 2294, 2295, and 2296 (receipt of deposits when insolvent, overdrafts by officers and loans of funds to officers—see Banks, XI), includes trust companies expressly suggests that the three sections named may not be applicable to trust companies.

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IOWA.

The statutes of this State to date are in the Annotated Code of Iowa, 1897, in the supplement of 1907, and in the session laws of 1909. Citations in the digest are to sections in the Code, treating changes made by amendments which appear in the supplement as incorporated in the code itself. Three chapters of Title IX (Of corporations) are concerned with banking: Chapter 10, Of savings banks; chapter 11, Of state banks; and chapter 12, Of banks. Trust companies are mentioned only in one or two sections. Since the whole of chapter 12 applies both to banks and to savings banks, it has been made the subject of a separate heading in the digest, "General provisions;" chapter 11 is digested under the heading "Banks," and chapter 10 under the heading "Savings banks;" the few trust company provisions are put under a heading, "Trust companies."

Constitutional provisions require that an act of assembly authorizing or creating corporations with banking powers be passed by a majority of voters at an election (constitution, art. 8, sec. 5), and make every stockholder "in a banking corporation or institution" individually liable in an amount equal to the shares held, in addition to them, for all debts accruing while he is a stockholder (constitution, art. 8, sec. 9). The compiler of the Code, however, cites cases to the effect that these provisions of the constitution apply only to banks of issue (70 N. W., 752; 63 Iowa, 11).

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GENERAL PROVISIONS APPLICABLE TO BANKS AND SAVINGS BANKS.

II.—Liabilities and Duties of Stockholders and Directors.

All stockholders of savings and state banks are individually liable to the creditors of the corporation above the amount of stock held by them, to an amount equal to their shares, for all liabilities accruing while they remain stockholders (1882). (See statement of the constitutional provision on this point in the paragraph above.)

Officers may receive a reasonable compensation, but no director as such may be paid for his services (1869). The board of directors of every bank must at its annual meeting appoint from its members an examining committee of not less than two, who make all examinations and report to the board (1871). If the directors of a bank whose capital is impaired do not proceed when notified by the auditor to make it good by assessment and sale, they are individually liable for the deficiency (1880).

III.—Supervision.

The auditor of the State is in charge of banking. None of the six examiners (appointed by the auditor with salaries of $1,800 each per annum) may examine a bank or loan and trust company in a county in which he is interested in banking or trust company business (1875, amd. by 1909, chap. 115; and 1876). When it appears to the auditor that a bank has refused to pay its deposits, or has become insolvent, or that its capital has become impaired, or that it has violated the law, or is conducting its business in an unsafe manner, he orders a discontinuance of the illegal and unsafe practices. If the bank refuses to comply with his orders, or if he becomes satisfied that the

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bank is insolvent or unsafe, or that the interests of creditors require it to be closed, he authorizes one of his bank examiners to take possession of the bank, and applies to court for a receiver (1877). When the capital of any bank is impaired the auditor may require an assessment upon the stockholders. When so ordered, the directors of the bank must cause the deficiency to be made good by assessment and, where that is unpaid, sale of the stock of the shareholder assessed (1878); if they fail to proceed thus, a receiver may be appointed (1880). In case a director, officer, or employee is guilty of intentional fraud, or of deception with regard to means or liabilities, or of participating in the payment of dividends which leave insufficient funds to meet liabilities, not only is the guilty person punished, but the bank may be closed by proceedings in court (1888). For violations of section 1889 corporations forfeit their charter (see XI, *infra*). The auditor exercises supervision over renewals or extensions of the period of corporate existence of banks (1618 *et seq*).

REPORTS.

Banks are required to transmit a statement of their condition to the auditor within ten days after receiving his request. The following are the items: Capital paid in; debts due all persons other than regular depositors; amount due depositors, including both sight and time deposits; deposits by the bank subject to draft at sight, specifying location of depositaries and amounts of deposits; coin and bullion; legal tender, national bank notes, etc.; drafts and checks on other solvent banks, and other cash items; bills, bonds, and other evidences of debt discounted or purchased by the bank; value of real and personal property specifying the amount of each; undivided profits; and the total amount of liabilities of directors to the bank (1872). Reports must be at least quarterly;

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but the provision is that the auditor may examine any bank when he thinks proper or he must call upon it for a report on a given past day as often as four times a year and must cause the report to be published in a local newspaper (1873). He has power to call for special reports whenever he thinks them necessary to obtain a complete knowledge of the condition of the bank (1874). The president and cashier of every bank keep a list of names and residences of officers, directors, and stockholders, with the number of shares held by each; they transmit a copy of this list to the auditor within ten days after each annual meeting (1889). The examining committee must make four examinations a year, of which one must be in June and another in December; the results of these two examinations are reported to the auditor (1871). For reports required for purposes of taxation, see 1322.

In his biennial report to the governor, the auditor is required to state the condition of every bank from which he has had reports for the past year and to suggest changes in the laws (1881).

EXAMINATIONS.

The provision for examinations or reports referred to above reads as follows: "The auditor of State may, at any time he may see proper, make or cause to be made an examination of any savings or state bank, or he shall call upon it for a report of its condition upon any given day which has passed, as often as four times each year," etc. (1873). "The board of directors of each savings and state bank shall, at its annual meeting, appoint from its members an examining committee of not less than two, which shall examine the condition of the bank, at least every quarter," and report to the board; two of these quarterly examinations are reported to the auditor. In case any bank fails to furnish reports of these two examinations, the auditor

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may have an examination made by one of his regular examiners (1871).

V.—Discount and Loan Restrictions.

The total liabilities to any bank of a person, company, or firm, for money borrowed, including in company or firm liabilities those of the members, must not exceed 20 per cent of the paid-in capital of the bank; but a bank may loan, in an amount not exceeding one-half its capital, to any person, company, or firm, on mortgage of unincumbered farm land in Iowa worth at least twice the amount of the loan, and the discount of bills of exchange drawn against existing values or of paper owned by those negotiating it is not considered money borrowed (1870). Officers and employees of banks must not borrow except upon the express order of the board of directors made in the absence of the applicant; the same security must be required from them as from others. The board of directors, however, may authorize loans to a director not holding any other office, nor being an employee, not to exceed sum at any one time a maximum fixed by the resolution of the board; the director in question must not be present when the vote is taken, and must give the same security as is required of others (1869).

State and savings banks may contract indebtedness only for expenses of transacting business, for deposits, and to pay depositors; except that by order of the directors further liabilities not in excess of the capital stock may be incurred (1855*a*).

X.—Unauthorized Banking.

No corporation may engage in the banking business, receive deposits, and transact the business generally done by banks unless it is subject to the provisions of Title IX

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(Of corporations), or other banking laws of the State, except that loan and trust companies may do certain banking business. Any corporation violating the section of which this provision is a part forfeits its charter, and the corporation, its officers, directors, and agents are punished by a fine of not less than $500, or imprisonment for not less than two years, or both (1889).

XI.—Penalties.

An officer or employee of a bank violating the provisions against loans to an officer or employee is guilty of embezzlement, and suffers imprisonment not exceeding ten years, or fine not less than the amount embezzled, or both penalties (1869). Any officer whose duty it is to make a report is guilty of a misdemeanor if he fails to do so, punishable by fine of from $100 to $1,000 or imprisonment from three months to three years (1886). Directors, officers, and employees who make false entries or reports with intent to deceive an examiner, or who divert the funds of the bank to other objects than those authorized by law, are fined not more than $10,000, and imprisoned from two to five years (1887). Directors, officers, and employees who are guilty of intentional fraud, or of deceit in relation to liabilities, etc., or of assisting in the payment of excessive dividends, are punished by a fine of not less than $500, imprisonment of not less than one year, or both (1888). Section 1889 provides that any corporation which violates it shall forfeit its charter, and its officers, directors, and agents shall be punished by a fine of not less than $500, imprisonment for not less than two years, or both; the provisions of the section include that requiring a list of officers, directors, and stockholders to be kept and transmitted to the auditor; that forbidding corporations to engage in banking business except under the

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law; and those subjecting trust companies to the rules applicable to savings banks and state banks in certain respects (see Trust companies, *infra*).

The officer, director, etc., who receives deposits knowing his bank is insolvent is guilty of a felony punishable by fine not exceeding $10,000, imprisonment in the penitentiary for not more than ten years, or imprisonment in the county jail for not more than one year, or both fine and imprisonment. Among the sorts of institutions subject to this rule are banks, deposit offices, and corporations receiving deposits (1884 and 1885).

BANKS.

I.—Terms of Incorporation.

State banks must not be organized with a less paid-up capital than $50,000, except that in cities or towns of not more than 3,000 there may be banks with a paid-up capital of not less than $25,000 (1864). Shares must be of $100, issued only on full payment of the sum represented by them (1865).

II.—Liabilities and Duties of Stockholders and Directors.

Every state bank is managed by a board of directors of not less than five, who must be shareholders, as follows: In banks having a capital of $25,000 to $30,000, two shares; in those having a capital of $30,000 to $40,000, three shares; in those having a capital of $40,000 to $50,000, four shares; and in those having a capital of $50,000 or over, five shares (1866).

IV.—Reserve Requirements.

All state banks located in cities or towns of less than 3,000 must maintain a reserve of not less than 10 per cent

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of their total deposits; all those located in cities and towns of 3,000 or more must maintain a reserve of not less than 15 per cent. Three-fourths of the reserve may be on deposit subject to call with other banks organized under state or national laws (1867).

X.—Unauthorized Banking.

Unless the provisions of the code are complied with, no association may transact the business of banking, buying and selling exchange, receiving deposits, and discounting paper (1861). No unincorporated bank may embrace in its name the word "state" (1862), which is required to be part of the name of banking corporations (1861).

SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks may do a commercial banking business (1860).

The paid-up capital of every savings bank must be not less than $10,000 in cities, towns, or villages of 10,000 or less, nor less than $50,000 in cities having a greater population. The capital must be paid in before business is begun (1843). Shares must be of $100 each, issued only on full payment of the sums represented by them. The provision that stock "owned by any corporation" may be transferred by an agent of that corporation indicates that corporations may be shareholders (1853).

The directors of any savings bank may set apart from its net earnings any desired sum as a surplus fund to be kept separate from undivided profits. This surplus may be transferred back to the undivided profits account and used to pay expenses and dividends only when deposits are less than ten times the capital or capital and remaining surplus (1850*a*). Dividends may be declared only

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out of net profits, after expenses, including interest to depositors, have been paid (1852).

II.—Liabilities and Duties of Stockholders and Directors.

There must be not fewer than five nor more than nine directors, at least three-fourths of them citizens of the State. The stock required to be held to qualify as a director is as follows: In a savings bank having a capital of less than $20,000, one share; in one having a capital of $20,000 to $30,000, two shares; in one having a capital of $30,000 to $40,000, three shares; in one having a capital of $40,000 to $50,000, four shares; in one having a capital of $50,000 or over, five shares (1845).

III.—Supervision.

Examinations.

The auditor may make a preliminary examination of the affairs of a savings bank to satisfy himself that the required capital has been paid in, etc. (1843).

IV.—Reserve Requirements.

Savings banks doing a commercial business located in towns of less than 3,000 must keep a reserve equal to 15 per cent of their commercial deposits and 8 per cent of their savings deposits. Savings banks located in cities and towns of 3,000 or over must keep a reserve equal to 20 per cent of their commercial deposits and 8 per cent of their savings deposits. Savings banks doing an exclusively savings bank business must keep an 8 per cent reserve fund.. Three-fourths of the reserve may be on deposit, subject to call, in other banks organized under state or national laws (1860).

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V.—Discount, Loan, and Deposit Restrictions.

For certain provisions regarding loans, forbidding loans on the savings bank's own stock, etc., see VI, *infra.*

Every savings bank may receive on deposit money equal to twenty times its paid-up capital and surplus; no greater amount of deposits may be received unless the paid-up capital and surplus are correspondingly increased. When there are sufficient funds on hand to pay depositors, the officers of a savings bank may waive the sixty days' notice requirement. They may issue certificates of deposit payable on demand (1848). All accounts upon which no deposit or draft has been made for ten years are closed for purposes of interest, unless the deposit is an endowment for children, a trust estate, or a deposit where special provision has been made for a longer time (1849).

VI.—Investments.

A savings bank may hold real estate only as follows: The lot and building in which its business is carried on; such real estate as has been purchased at sales on foreclosure of mortgages owned by the bank or on judgments rendered for debts due the bank; such as has been conveyed to it in satisfaction of previous debts; and such as it may obtain by redemption as junior mortgagee or judgment creditor. All apparently but the lot and building first named must be sold within ten years (1851).

Every savings bank must invest its funds, capital, deposits, profits (and surplus—1850*a*), as follows: In United States securities; in securities of Iowa; in bonds or warrants of municipalities of Iowa, but not exceeding 25 per cent of the assets of the bank may be thus invested; in notes or bonds secured by mortgage of unincumbered real estate in Iowa worth twice the loan; in dealings in commercial paper, bills of exchange, or any other personal or

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public security, but a savings bank must not purchase, hold, or loan upon shares of its own capital (1850).

X.—Unauthorized Banking.

Any bank or person not incorporated under the provisions of the chapter on savings banks who advertises, exhibits a sign, etc., as a savings bank, and any savings bank advertising a greater amount of capital than has been paid in forfeit $100 a day while the offense is continued; it is also a misdemeanor for each day (1859).

TRUST COMPANIES.

Trust companies are referred to in the section requiring reports to the assessors for taxation (1322), and in the section forbidding examiners to examine institutions in a county where they are interested in the banking or loan and trust company business (1875, amd. by 1909, chap. 115; and 1876). The most important trust company provisions are in section 1889: Corporations are forbidden to do banking except as authorized by the banking laws, except that "loan and trust companies may receive time deposits subject to the same limitations as are now or may hereafter be prescribed for the receiving of deposits by state banks and issue drafts on their depositaries." All companies authorized to execute trusts or employing the word "trust" in their name must have a paid-up capital of not less than that required of savings banks and are "subject to examination, regulation, and control of the auditor of state like savings and state banks." Their stockholders are liable to creditors in the terms of section 1882. (See *supra* for the provisions referred to.) Any corporation violating section 1889 forfeits its charter, and the corporation, its officers, directors, and agents are punished by fine of not less than $500, imprisonment for not less than two years, or both.

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KANSAS.

So far as the general banking law of Kansas is concerned, the digest is based upon the 1908 reprint by the state banking department, which includes all legislation through the special session of 1908. The general law is chapter 11*a* of the General Statutes of 1901, amended by various later laws; most of the citations in the digest are accordingly simply numbers in parenthesis, which refer to sections in the General Statutes of 1901, assuming all amendments incorporated. So far as the trust company law is concerned, the digest is based upon the General Statutes of 1905, in which article 19 of chapter 23 is entitled "Trust companies." References to that act, therefore, are by numbers of sections in the General Statutes of 1905, indicating that the section is in those statutes and not in the statutes of 1901, by prefixing 1905 to the number of the section. The 1909 session laws have also been examined; an amendatory act, chapter 59 of 1909, and also the bank depositors' guaranty law, chapter 61 of 1909, appear in the digest. References to acts in the 1907 or 1909 session laws are prefixed by 1907 or 1909, as the case may be; note, however, that as explained above, references which are prefixed by 1905 are not to the session laws of that year, but to the edition of General Statutes then published. There is no special law dealing with

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savings banks. It is a constitutional provision that banking laws must be submitted to popular vote and approved by a majority (constitution, Art. XIII, sec. 8).

BANKS.

I.—Terms of Incorporation.

Apparently the business of savings banking and general banking may be combined, for it is provided that "all savings banks or savings associations which do not transact a general banking business" must keep a certain reserve (418).

The capital in towns or cities of less than 500 must be not less than $10,000; in towns of from 500 to 1,000, not less than $15,000; in all cities of the third class with a population of 1,000 and over, not less than $20,000; in all cities of the second class, not less than $25,000; and in all cities of the first class, not less than $50,000 (408). (For classification of cities see 1905, chapter 17*a*.) Shares must be of $100 each and all subscriptions paid in in cash (410). A restriction on the amount of deposits allowed in proportion to capital is given under V, *infra*.

Dividends may be declared out of net profits, but before any dividend is declared one-tenth of the net profits since the last dividend must be carried to surplus fund until it amounts to 50 per cent of capital (438). No capital may be withdrawn in dividends or otherwise (440).

Banks are forbidden to give preference to depositors or creditors by pledging the bank's assets as collateral, but banks may borrow for temporary purposes not more than 50 per cent of the capital, pledging assets not to exceed by more than 20 per cent the amount borrowed. This privilege must not be used habitually for the purpose of reloaning, however (446).

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II.—Liabilities and Duties of Stockholders and Directors.

Shareholders are liable additionally for a sum equal to the par value of their stock (416).

There must be from five to thirteen directors, a majority of whom must be residents of the county where the bank is located or an adjoining county. Each must own at least $500 of stock. They hold not less than four regular meetings a year (415, amd. by 1909, chap. 59, 1). Directors who receive deposits knowing the bank is insolvent are guilty of a felony (421) and are besides individually responsible for deposits so received, or debts created under like circumstances (471). Bank officers who permit the funds of the bank to be paid on check, order, or draft, the drawer of which has not on deposit a sum equal to his draft are personally liable to the bank for the amount paid (445).

III.—Supervision.

The state official is the bank commissioner, who is appointed for four years; he and his deputies must have had at least three years' practical knowledge of banking, or have served one term as bank commissioner. No commissioner or deputy may examine a bank in which he is financially interested (427). The salary of the bank commissioner is $2,500 a year (463).

The occasions in which the commissioner takes action against banks are as follows: If reserves fall below the required amount, he notifies the bank in question to make good the reserve, and if it fails to do so for thirty days it is deemed insolvent; the commissioner then takes possession and proceeds against the bank for a receiver (418, amd. by 1909, chap. 59, 2). He orders excessive loans reduced within sixty days (419). When it appears that the capital

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of a bank is impaired, the commissioner notifies the bank to make the impairment good within ninety days (450). If a bank refuses to be examined, the commissioner revokes the bank's authority to transact business and institutes receivership proceedings (454). When the bank appears to be habitually borrowing for the purpose of reloaning, the commissioner requires it to pay off its debts (446). The commissioner proceeds against a bank which refuses to comply with any requirement made upon it for ninety days, to forfeit its franchise and dissolve the corporation (426). In general, in case of insolvency (defined in 437) shown by examination or report, and in case of violation of law, the bank commissioner immediately takes charge of the bank. He may appoint a special deputy to serve in this capacity, like a receiver, for a period not longer than ninety days. The commissioner examines the bank's affairs thoroughly, and if satisfied that it can not resume business or liquidate its debts, he then definitely appoints a receiver. If the holders of more than 50 per cent of the claims against the bank agree upon a person for receiver the commissioner must appoint him (434). There are provisions for the enforcement of the double stockholders' liability by receivers (461, amd. by 1909, chap. 59, 7). Banks may voluntarily put themselves in the commissioner's hands (435); he has, besides, supervision over voluntary liquidations (436). He approves reductions of capital stock (449).

After a special examination required to be made under the guaranty fund act when a bank fails to pay its assessments, the bank commissioner, if he finds the bank insolvent, proceeds to liquidate it (1909, chap. 61, 5). If upon examination a bank is found to be violating the depositors' guaranty statute, the commissioner, after thirty days' notice to the bank to comply with the statute, may cancel

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its membership in the fund, and seize for the fund the deposited bonds. See XII, *infra* (1909, chap. 61, 11).

If the bank commissioner finds any officer of a bank dishonest, reckless, or incompetent, he orders the directors of the bank to remove the officer; failure to comply with his order cancels the bank's authority to transact business till it is complied with (1909, chap. 59, 4).

The commissioner has certain discretion with respect to reserve depositaries. See IV, *infra*.

REPORTS.

A preliminary report containing names and residences of stockholders is transmitted to the bank commissioner before business is begun (411). Regular reports must be made at least four times a year and oftener if called for by the bank commissioner, according to the form he prescribes, exhibiting resources and liabilities at the close of business on a past day specified by the commissioner. They must be transmitted to the commissioner within ten days after receipt of his request, and must be published in a local newspaper (423 and 432). In addition to these reports every bank must within ten days after declaring a dividend forward to the commissioner a statement of the amount of the dividend and the amount carried to surplus. Also within ten days after January 1 of each year a report of receipts and disbursements for the preceding year must be forwarded to the commissioner (424). After each examination made by the directors at their quarterly meetings a report of the result is forwarded as a record of the meeting to the commissioner (415, amd. by 1909, chap. 59, 1). Once a year a list of shareholders, their addresses, and amounts held is sent to the commissioner (453). Receivers make and publish reports as banks do (459).

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For special reports required to be made by banks guaranteed under the depositors' guaranty fund statute, see XII, *infra* (1909, chap. 61, 7).

Every other year the commissioner reports to the governor, stating the name, location, and officers of each bank, number and dates of examinations and reports, and whatever other information the commissioner thinks proper (462).

(For reports required for purposes of taxation, see 1905, 8276.)

EXAMINATIONS.

A preliminary examination is made by the commissioner before business is begun with a view particularly to ascertaining the amount of capital paid and compliance with preliminaries (411 and 422). The regular examinations are made semiannually, or oftener if necessary, by the commissioner or a subordinate, who fully investigates the condition of the bank (429). Banks in the hands of receivers are examined in the same way (459). The commissioner makes an examination of banks in voluntary dissolution (414 and 436). He examines thoroughly insolvent banks against which receivership proceedings are being brought (434).

Before a bank is allowed to become a guaranteed bank (see XII, *infra*) it must be rigidly examined by the bank commissioner (1909, chap. 61, 1). A special examination is immediately made when a bank fails to pay its assessments to the depositors' guaranty fund (1909, chap. 61, 5).

Directors at their regular meetings, which are at least quarterly, make a thorough examination of the affairs of the bank (415, amd. by 1909, chap. 59, 1).

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IV.—Reserve Requirements.

Banks in cities or towns of less than 5,000 must keep a reserve in available funds equal to 20 per cent of their entire deposits, and banks in cities over 5,000, 25 per cent of their entire deposits, three-fourths of which may consist of balances due from good solvent banks, provided the depositor bank has no stockholders who are also stockholders in the depository, unless the bank commissioner waives this prohibition in the particular case, and provided the depositories are banks located at commercial centers or other places approved by the commissioner; the other one-fourth must be in cash. A bank which is a depositary for reserves of other banks must keep a reserve of 25 per cent always. Cash items must not be considered part of reserves. When the reserve falls below, no new liabilities may be incurred except discount or purchase of sight exchange and no dividends may be declared. The commissioner notifies banks whose reserves are below the requirement, to make the deficiency good. The commissioner may refuse to consider as part of a bank's reserve balances due from other banks which neglect to furnish him with required information (418, amd. by 1909, chap. 59, 2).

V.—Discount, Loan, and Deposit Restrictions.

The total liability to any bank of a person, firm, or corporation for money borrowed, including in firm or corporation liabilities those of the members, must not exceed 15 per cent of the capital and surplus, but discount of bills of exchange drawn against existing values and of commercial paper under most circumstances is not considered as money borrowed (419).

No bank may loan on the security of shares of its own stock, unless the security is necessary to prevent loss on

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a previous debt, in which case the stock must be disposed of within six months (417).

No bank may accept deposits continuously for six months in excess of ten times its paid up capital and surplus. The violation of this section for thirty days cancels the bank's authority to transact business until the section is complied with (1909, chap. 59, 5). A bank guaranteed under the depositors' guaranty fund statute loses its membership in the fund if its deposits exceed this proportion, and forfeits its deposited securities (1909, chap. 61, 14). See XII, *infra.*

(For restrictions on banks' power to borrow, see I, *supra.*)

VI.—INVESTMENTS.

Only such real estate may be held as is necessary for the convenient transaction of the bank's business (this must not exceed one-third of the paid in capital), such as is conveyed to the bank in satisfaction of previous debts, and such as the bank purchases under judgments or foreclosures on liens held by the bank (and the bank must never bid a larger amount than that necessary to satisfy the debt and costs). All real estate, except that held for the accommodation of the bank in its business, must be disposed of within five years and thirty days (456). In the enumeration of powers of banks it is provided that they may buy and sell United States bonds, Kansas bonds, and bonds of Kansas municipalities (407).

No bank may engage in commerce, etc., nor invest in the stock of any other bank or corporation, nor purchase its own stock unless that purchase is necessary to prevent loss upon a previous debt, in which case the stock must be disposed of within six months. Nevertheless, a bank may hold and sell all sorts of property which it acquires as collateral for loans or in the ordinary collection of debts,

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but such goods must be disposed of as soon as possible and are not considered as assets for more than six months after they are acquired (417).

VII.—Overdrafts.

These are not expressly forbidden, but it is provided that any officer who pays out the funds of the bank upon a check, order, or draft of one who has not on deposit a sum equal to the draft is personally liable to the bank for the amount paid (445).

X.—Unauthorized Banking.

It is unlawful for any individual, firm, or corporation to do a banking business or receive deposits without having received a certificate from the bank commissioner. Doing business without this certificate, whether individually or as an interested party in a firm or corporation, is a misdemeanor, punishable by fine of from $300 to $1,000, or by imprisonment of from thirty days to one year, or by both (422). Doing business after authority has been revoked is similarly punishable (455). Individuals, firms, or corporations who advertise themselves to be engaged in a banking business without having first obtained authority from the bank commissioner are guilty of a misdemeanor, punishable by fine not to exceed $1,000, imprisonment not to exceed one year, or both (468 and 441). Private bankers must have the capital required of incorporated banks; they must not use the word "State" as part of their name, and in all published advertisements, etc., they must use the words "private bank" (452).

XI.—Penalties.

False reports or entries in books are punished by a fine of not over $1,000, or imprisonment of from one to five

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years (420). Receipt of deposits while the bank is insolvent is a felony by the officer who does so, punishable by a fine of not over $5,000, imprisonment of from one to five years, or both (421). Failure to report entails a penalty on the bank of $50 per day (425). Receivers of banks who fail to report or permit themselves to be examined are subject to the same penalty that banks are (459). Failure to comply with a requirement made by the bank commissioner for ninety days entails forfeiture of the bank's franchise (426). The bank officer or employee who certifies a check when the drawer has not the required funds in the bank is guilty of a misdemeanor, punishable by the general penalty given below (443). Refusal to submit the affairs of a bank for examination may entail revocation of authority to do business (454). The commissioner or a subordinate of his who neglects his duty, permits a violation of the statute for ninety days, makes false statements, etc., loses his office, and is punished by the general penalty given below (464, amd. by 1909, chap. 59, 3). The general penalty for bankers, officers of banks, directors, or employees who violate the banking statutes is a fine of not over $1,000, imprisonment of not over one year, or both (441).

Every officer, agent, etc., of a bank who embezzles, issues a certificate of deposit, draws a draft, etc., with intent to defraud anyone, or to deceive an officer of the bank or an examining official, and anyone aiding in such an offense, is guilty of a felony, punishable by imprisonment for from one to fifteen years (444, amd. by 1909, chap. 59, 6).

For penalties with respect to the guaranty fund system see XII *infra*. Assessments are increased by penalties in case they are not paid on time; various fines and imprisonments result from a bank's improperly advertising itself (1909, chap. 61, 5, 7, etc.).

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XII.—Depositors' Guaranty System.

Any state bank in Kansas having a paid up and unimpaired surplus equal to 10 per cent of its capital may participate in the assessments and benefits of the bank depositors' guaranty fund of the State of Kansas. The bank examiner when notified that the directors have resolved to participate in the system makes a rigid examination of the bank, and if it is found to be solvent, properly managed, and conducted in strict accordance with the law the commissioner, after the bank has made the required deposit, issues a certificate stating that its deposits are guaranteed (1909, chap. 61, 1). Before receiving this certificate each bank, as an evidence of good faith, must deposit, and it must at all times maintain a deposit, of cash, or of United States bonds, Kansas bonds, or bonds of Kansas municipalities, to the amount of $500 for every $100,000, or fraction, of average deposits eligible to guaranty (less its capital and surplus) as shown by its last four statements; provided, however, that each bank must deposit not less than $500. These bonds, or cash in lieu of them, must not be charged out of the assets of the bank, but must be carried in its assets as "guaranty fund with state treasurer" until such a time as the bank shall default in payment of assessments. In addition to this deposit every bank must pay in cash an amount equal to one-twentieth of 1 per cent of average deposits eligible to guaranty (less its capital and surplus), and these assessments must be credited to the bank depositors' guaranty fund with the state treasurer, subject to the order of the bank commissioner. The minimum assessment required from any bank is $20. Any bank seeking to participate in the system after the first annual payment, that of 1910, is assessed an amount approximately equal to its proportionate share of the money then in the fund, the amount

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of the assessment to be determined by the commissioner (1909, chap. 61, 2 and 10).

The bank commissioner during January of each year makes assessments of one-twentieth of 1 per cent of the average guaranteed deposits, less capital and surplus, of each bank (the minimum assessment to be $20) until the cash fund is approximately equal to $500,000 above whatever cash may have been deposited in lieu of bonds. When the fund has reached this point the commissioner discontinues assessments. If the fund becomes depleted, the commissioner levies such additional assessments as are necessary to maintain it, provided that not more than five assessments of one-twentieth of 1 per cent may be made in one year. The treasurer holds the fund in state depository banks, subject to the order of the bank commissioner, and credits it quarterly with interest (1909, chap. 61, 3).

When any bank is found to be insolvent by the bank commissioner and he is proceeding to wind up its affairs (see Banks, III, *supra*), he issues at the earliest possible moment to each depositor a certificate bearing interest at 6 per cent, except where a contract rate exists on the deposit, in which case the certificate bears interest at the contract rate. After the officer in charge of the bank has realized upon the assets of the bank and exhausted the double liability of its stockholders and has paid all the funds so collected in dividends to depositors, he then certifies all balances due on guaranteed deposits, if any such balances exist, to the bank commissioner, who draws upon the depositors' guaranty fund, a check in favor of each depositor for the balance due him. If the available funds in the guaranty fund are not sufficient to pay all guaranteed deposits of a failed bank and the five assessments have been made, the commissioner pays to the depositors pro rata the funds in his hands, and pays the remainder

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due them when the next assessment becomes available. When the commissioner has paid any dividend to depositors out of the fund, the claims of the depositors so paid revert to the commissioner for the benefit of the fund until it has been reimbursed for its payments with interest at 3 per cent (1909, chap. 61, 4).

A penalty of 50 per cent of the amount of an assessment is added to it when a bank does not remit within thirty days after receipt of notice, and if a bank after that notice fails to remit an assessment a sufficient amount of its bonds are sold by the commissioner to pay the assessment. The remainder of the bonds, or cash deposited in lieu of them, are forfeited to the guaranty fund if the bank does not within sixty days from the default in payment of the assessment remit the full amount of assessment and penalty to date and restore its pledge of bonds or money. On the bank's failure to remit its assessments the commissioner examines it, and if he judges it insolvent proceeds to liquidate it. If it is found to be solvent, he cancels its certificate as a guaranteed bank and posts a notice that it has withdrawn from the guaranty fund system. Banks may voluntarily withdraw from the system, in which case they receive their pledged bonds when the affairs of all failed banks in liquidation at the end of six months after the bank has elected to withdraw have been closed up and the bank has paid its assessments on account of these failures (1909, chap. 61, 5).

Only deposits which do not bear interest and the following deposits are guaranteed under the statute: time certificates payable in from six months to one year, bearing interest at not more than 3 per cent, on which interest ceases at maturity; savings accounts, not over $100 to any one person, not subject to check, requiring sixty days' notice of withdrawal, and bearing interest at not

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more than 3 per cent. Deposits which are primarily rediscounts or money borrowed by the bank and all deposits otherwise secured may not be guaranteed. Deposits not eligible to guaranty are excluded in computing its assessments (1909, chap. 61, 6).

Each bank guaranteed under the statute keeps a record of the interest paid to each depositor and makes a quarterly statement of this record to the commissioner. If a bank advertises that its depositors are guaranteed, then if it pays or agrees to pay interest at a greater rate than 3 per cent on any deposits it must state on the advertisement that no deposits are guaranteed which bear a greater rate of interest than 3 per cent. No bank which pays interest at a greater rate than 3 per cent on any deposit, or pays interest on short-time savings deposits, or on time certificates cashed before maturity, may participate in the system. Any managing officer of a guaranteed bank, or any person acting for the bank who promises to pay a depositor interest at a higher rate than that allowed by the statute, or who pledges time certificates or other obligations of the bank as security for his or another's personal obligation, in order to avoid the provisions of the statute, is guilty of misdemeanor, punishable by fine of $500 to $5,000, imprisonment not exceeding one year, or both. Advertising in such a way as to imply that deposits are guaranteed by the State of Kansas is a misdemeanor punishable by fine of $500, and advertising so as to imply that deposits are guaranteed by the system when the advertising bank is not so authorized to do is a misdemeanor punishable by fine of $500 to $1,000 (1909, chap. 61, 7).

Any trust company may reorganize as a state bank so as to come within the provisions of the depositors' guaranty fund system, and private banks or national banks properly qualified may also reorganize as state banks

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(1909, chap. 61, 8). Any national bank in Kansas, after an examination resulting in the approval of the bank commissioner, may participate in the system on the same terms as state banks, provided it forwards to the commissioner detailed reports of its condition on the dates when they are required of state banks (which reports it need not publish, however), and provided it submits to one examination a year by the commissioner, or more at his discretion (1909, chap. 61, 13).

No guaranteed bank may receive deposits continuously for six months in excess of ten times its paid-up capital and surplus; violation of this provision cancels all rights to participate in the benefits of the fund and forfeits the deposited bonds (1909, chap. 61, 14). Another statute provides that if a bank exceeds this deposit limit for thirty days over the continuous six months, its authority to transact business is revoked till the excess of deposits is reduced (1909, chap. 59, 5). If upon examination a guaranteed bank is found to be violating the statute, the commissioner notifies it that it has thirty days in which to comply with the provisions of the statute; if it fails to do so, it forfeits its membership in the guaranty fund, and its bonds deposited belong to the fund (1909, chap. 61, 11).

SAVINGS BANKS.

The only special provision for savings banks is that those which do not transact a general banking business must keep on hand at all times in actual cash a sum equal to 10 per cent of their deposits, and keep a like sum invested in good bonds of the United States, or state or municipal bonds of Kansas worth not less than par (418).

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TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies do a general banking business (1907, p. 629).

The capital must be not less than $100,000 nor more than $1,000,000, divided into $100 shares. Twenty per cent must be paid in before the company begins business, and the entire capital fully paid within six months (1905, 1529).

Dividends may be declared not in excess of net profits, if a sum equal to 10 per cent of the earnings during the last dividend period has been carried to a surplus account; this last must be done until the surplus equals one-half the capital. When the surplus is used in charging off losses, no dividend may be declared in excess of 50 per cent of net earnings until the surplus is restored, the other 50 per cent being, at each dividend time, used to replenish surplus (1905, 1535).

II.—Liabilities and Duties of Stockholders and Directors.

Dues from corporations are secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder (constitution, Art. XII, sec. 2).

There must be from five to fifteen directors, a majority of them residents of Kansas, and each a stockholder to an amount not less than $1,000 (1905, 1533). They must hold at least four regular meetings a year, making a thorough examination of the affairs of the company at each meeting (1905, 1534). If they pay an illegal dividend, they are liable to the company or to creditors for that amount (1905, 1535).

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III.—Supervision.

Trust companies are under the supervision of the bank commissioner. The provisions of the banking law relating to impairment of capital, insolvency, and the duty of the bank commissioner in such cases, apply also to trust companies. They make four Reports like banks, and are subject to the same sort of Examinations (1905, 1538 and 1540). The directors at their quarterly meeting examine the affairs of the company (1905, 1534).

IV.—Reserve Requirements.

Trust companies that receive deposits must keep a sum equal to 25 per cent of the deposits that are subject to check, and 10 per cent of the time deposits, "in the same manner and subject to the same rules as is provided for state banks," but United States bonds, and demand loans, secured by United States, state, or municipal bonds of the cash value of the loans, may be accepted as part of the reserve in lieu of deposits in banks (1905, 1528).

V.—Discount and Loan Restrictions.

A trust company may loan on "real estate, chattel, collateral, or personal security," but no trust company may loan on its own stock. The latter restriction seems not even subject to the exception of necessity to secure an old debt, for the exception is phrased to include "purchase," but not taking as security. (1907, p. 628.)

VI.—Investments.

Trust companies may own buildings suitable for the conduct of their business and may hold real estate acquired in the collection of debts, but the real estate so owned must not exceed 50 per cent of the capital of the company for a longer period than six months (1905, 1537).

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A trust company may buy and sell all kinds of government, municipal, and corporation bonds, and "all kinds of negotiable and non-negotiable paper, securities, and stocks;" but the total investment of any trust company in bank stock must not exceed one-fourth of its paid up capital, and no trust company may purchase its own stock unless necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months. (1907, p. 628.)

X.—Unauthorized Trust Company Business.

The name of every trust company must end with the words "trust company" (1905, 1532). No corporation not organized under the Kansas law relating to trust companies may use the word "trust" as part of its name. Illegal use of the word is a misdemeanor, entailing a fine of not less than $300 nor more than $1,000, or imprisonment for not less than thirty days nor more than one year, or both; each day during which the word is used being a separate offense. (1907, p. 629.)

XI.—Penalties.

All the penalties provided in the banking law for failure to report or permit examinations or to comply with requirements of the bank commissioner, penalties for frauds, etc., and those for receiving deposits when insolvent, apply to trust companies, their officers, directors, and employees (1905, 1539).

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KENTUCKY.

In the revisal of the Kentucky statutes issued in 1903, chapter 32 deals with "Corporations—private." Of this chapter Article II is entitled "Banks and banking" and is divided into two subdivisions, "Incorporated banks" and "Private bankers," of which the latter was repealed in 1906. Article III of chapter 32 treats of "Trust companies;" and Article VII, of "Building and loan associations." Since this arrangement groups banks and savings banks together, the digest discusses them under one head, treating trust companies separately. It must be noted, however, that under 612*a*, the second and third clauses of which seem still to be in effect, trust companies, in so far as they do a banking business, are subject to the laws applicable to banks. Numbers in parenthesis refer to sections in the Kentucky statutes of 1903, and later legislation is referred to by chapters of the session laws, which have been examined through 1908.

BANKS AND SAVINGS BANKS.

I.—Terms of Incorporation.

Any number of persons, not less than five, may establish a commercial bank, or a savings bank, or a bank with departments for both classes of business (577). A bank combining the business of a commercial and savings bank must keep separate books for each kind of business (590).

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The capital stock of any bank must be at least $15,000, and in cities having a population of fifty thousand or more, at least $100,000 (577). At least 50 per cent of the capital must be paid in in money before business is begun. The remainder must be paid in in money within a year (580).

To combine the business of a bank and a trust company, not less than seven persons may associate with a capital stock of not less than $50,000 all paid in in money before the corporation begins business, except that if the capital equals or exceeds $100,000, then only one-half of it need be paid in before business is begun, and the rest must be paid in within twelve months. One-half of the capital stock must be securely invested for the trust business and kept separate; this is primarily liable for trust obligations. The rest of the capital may be used in banking business. The books must always show this separation (1906, chap. 146). The statutes governing banks apply to the banking department of such a corporation, and those governing trust companies apply to the trust company department (612*a*), unless the second and third clauses of 612*a* were repealed by chapter 146 of 1906, which seems unlikely.

Dividends may be declared out of net profits, but before declaring any dividend not less than one-tenth of the net profits for the preceding dividend period must be carried to a surplus fund until the surplus amounts to 20 per cent of the capital stock (596).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are liable for all contracts and liabilities of their bank to the extent of the amount of their stock at par, in addition to the amount of the stock (595). No per-

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son may hold more than one-half the capital stock of a bank exclusive of stock held as collateral (581).

Directors or other officers of any bank who receive deposits with knowledge that the bank is insolvent are individually responsible for the deposits (597). Directors who knowingly violate or permit their bank to violate any provisions of the statutes are liable to creditors and stockholders for any loss resulting from the violation (598).

III.—Supervision.

There appears to be no officer of the State charged with the duty of supervising banks alone. It is the secretary of state who performs the functions of a bank supervisor. If the reserve of any bank falls below the required amount, the secretary of state notifies the bank to make the reserve good, and if it fails to do so for thirty days the secretary of state, with the consent of the attorney-general, institutes proceedings for a receivership (585). If the capital stock of a bank becomes impaired, the secretary of state notifies the bank to make it good, and if the bank fails to do so for thirty days the secretary of state may institute proceedings necessary to wind up the affairs of the bank (580 and 586). In general, the secretary of state, when satisfied that any bank or corporation is insolvent or that its capital is impaired, or that it has violated any of the provisions of the law under which it was organized, may, with the approval of the attorney-general, apply to the court for the appointment of a receiver (616); and in case directors who violate the law fail to make good within a reasonable time whatever loss their violation occasions, the secretary of state institutes proceedings for forfeiture of the bank's charter (598). The secretary of state has authority to pass upon proposed reductions in the capital stock of any bank (587).

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REPORTS.

Once in every three months, and oftener if required, each bank reports its condition to the secretary of state at such times and according to such forms as he prescribes. Each alternate report is published in the county newspaper having the largest circulation (593). In January of each year the directors of every bank file with the secretary of state a list of stockholders and officers (595).

Twice in each January every bank publishes a statement of deposits, dividends, and interest which have been unclaimed by the person to whom they are due for five years (592).

(For reports due from state depositaries, see 4691 and 1906, chap. 5; for reports required for purposes of taxation, see 4092, etc., and 1906, p. 134.)

IV.—Reserve Requirements.

Banks must keep on hand at least 15 per cent of their total deposits, and in cities with a population of 50,000 at least 25 per cent. One-third of this reserve must be in money, and the balance may be in demand deposits in other banks. No bank, however, is required to keep on hand more than 10 per cent of savings deposits—that is, deposits on which the depositor has not the right to check except upon giving at least thirty days' notice (1906, chap. 155).

V.—Discount and Loan Restrictions.

No bank may permit any of its stockholders or any person, company, or firm, including in company or firm liabilities those of the individual members, to become indebted to the bank in an amount exceeding 20 per cent of its capital and surplus, unless the borrower pledges good collateral security, or executes a mortgage which is

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of more than the cash value of the loan above all other incumbrances. If the borrower is a director or officer his indebtedness must not exceed 10 per cent of the capital of the bank, unless he pledges property worth double the amount of the excess. In no case may the indebtedness of a person, company, or firm, including in company or firm liabilities those of the members, exceed 30 per cent of capital and surplus (583). There must be no privileges given stockholders in making loans over persons not stockholders (581).

No bank is allowed to take as security its own stock (581).

VI.—Investments.

Banks may hold such real estate as may be necessary for the transaction of their business; and, for a period not longer than five years, such other real estate as is received in satisfaction of previous debts, or such as is purchased under a judgment in favor of the purchasing bank (582).

No bank may hold any of its own capital stock unless the purchase is necessary to prevent loss on previous debt. Stock so purchased must not be held for a longer time than one year (581).

X.—Unauthorized Banking.

Individuals and partnerships may not engage in banking; violation of this rule is a misdemeanor, for which the penalty is from $20 to $50 a day while the illegal business is conducted (1906, chap. 44).

XI.—Penalties.

Any bank which fails to make reports within five days after they are due, or which fails to publish them, forfeits $200 (594). Officers of banks who receive deposits with

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knowledge of the bank's insolvency (and the same rule prevails in the case of individual bankers) are guilty of a felony, for which the punishment is from one to ten years' imprisonment (597). If directors of a bank allow a violation of law and the damage occasioned is not made good within a reasonable time, the secretary of state institutes proceedings for forfeiture of the bank's charter (598).

TRUST COMPANIES.

I.—Terms of Incorporation.

Any number of persons, not less than seven, may incorporate a trust company with a capital of not less than $15,000 in counties having a population of over 25,000 and under 40,000; with a capital of not less than $100,000 in counties of over 40,000 and less than 100,000; and with a capital of not less than $200,000 in counties of over 100,000. In counties of 25,000 or more, however, where there are cities belonging to certain classes (see statutory classification in 2740), a trust company may be organized in one of those cities with a capital of not less than $25,000 (1904, chap. 78). At least 50 per cent of the capital stock must be paid in in money before the trust company begins business. The remainder must be paid in in money within a year (607).

For the combination of trust company and banking business see I, under Banks and savings banks. Trust companies are forbidden to engage in banking business except under the provisions of chapter 146 of 1906, and 612*a*, for the combination of banking and trust company business (612).

II.—Liabilities and Duties of Stockholders.

The stockholders of trust companies are liable for all contracts and liabilities of their corporation to an amount equal to their stock at par in addition to the amount of

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the stock (613). No person may hold more than one-half the stock of any trust company, exclusive of stock held as collateral (609).

III.—Supervision.

The secretary of state has authority, with the advice and consent of the attorney-general, to withhold the certificate allowing the company to begin business if he thinks it has been formed for an illegitimate purpose (608).

On becoming satisfied that a trust company has become insolvent or that its capital is impaired, or that it has violated the law, he may apply for the appointment of a receiver (607 and 616).

Reports.

Trust companies report their condition as often and on the same dates and in the same manner as banks do (615). A list of the stockholders and officers must be filed with the secretary of state in January of each year (613). (For reports for purposes of taxation see 4092, etc., and 1906, p. 134.)

V.—Discount and Loan Restrictions.

No stockholder or any person, company, or firm, including in company or firm liabilities those of the members, may be indebted to a trust company in a sum exceeding 10 per cent of its capital and surplus, unless the borrower deposits good collateral security, or executes a mortgage worth more than the cash value of the loan above all other incumbrances. If the borrower is a director or officer he must not become indebted in excess of 10 per cent of the capital stock without pledging property worth double the excess. In no event may the indebtedness of one person, company, or firm, including in company or firm liabilities those of the members,

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exceed 20 per cent of capital and surplus (610). The same security is required of stockholders as of persons not stockholders (609).

Trust companies are not allowed to take their own stock as security (609).

VI.—Investments.

Trust companies may acquire land only for the transaction of their business, and, for a period not longer than five years, such other land as may be conveyed to them in satisfaction of previous debts, or such as may be purchased under a judgment in favor of the company; this does not prevent trust companies from holding land in trust, however (612).

Trust companies may not hold their own stock, unless the purchase is necessary to prevent loss upon a previous debt, and in that case the stock must be disposed of at the end of a year (609).

The capital of trust companies doing a banking business must be invested by halves, one-half for the trust-company business and the other for the banking business (1906, ch. 146).

XI.—Penalties.

Failure to make or publish reports entails the same penalty that is imposed upon banks for a like offense (615); and in general trust companies are subject, when engaged in the banking business, to all the provisions of law regarding banks (612*a*).

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LOUISIANA.

The statute law of this State on banking is in a very confused condition because so many recent statutes, instead of repealing former statutes specifically, have only repealed such laws or parts of laws as are consistent with the recent enactments. The revision of 1904 recognizes this difficulty, and so does the reprint of banking statutes on which this digest is based—a compilation, including all legislation through the session of 1908, prepared by L. E. Thomas, formerly state examiner of state banks. Mr. Thomas calls act No. 179 of 1902, as amended by act No. 140 of 1906, the general banking act, and act No. 45 of 1902 the trust company act. This, however, by no means makes it clear to which classes of business each of these two statutes applies, for No. 179 is framed to cover "banking associations and savings banks" and No. 45 to cover "banks" organized "for the purpose of conducting a savings, safe-deposit, and trust banking business in any of its branches." Owing to the difficulty occasioned by this phraseology in determining to which of our three classes, viz, banks, savings banks, or trust companies, the various provisions apply, the digest is not arranged according to those three classes, but in stating each provision tries to point its application merely by using the language of the clause on which it is based. The matter is further complicated because section 32 of 179 provides that in case of conflict with

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45, 45 is to control so far as concerns savings, safe-deposit, and trust banks; whereas section 7 of 45 provides that banks organized under that law shall, except as provided in it, have the powers and be subject to the regulations of banks organized under the general banking laws. All pertinent provisions of acts Nos. 45 and 179 of 1902 are here presented, citing those acts simply as "45" and "179", with sections. Other acts are inserted which seem clearly not repealed; they are cited either by year and number, or, where the abbreviation R. S. is used, by sections in the revised laws of Louisiana, 1904.

I.—Terms of Incorporation.

The regular amount of capital prescribed for banking associations and savings banks is $100,000 (179, sec. 28). Outside any incorporated town of 250 or more inhabitants, however, the corporation need have a cash capital of only $10,000 (179, sec. 2). There are the following rules for smaller capital, also: Banking associations other than savings banks may be organized in incorporated towns of less than 2,500 with a capital of $10,000; in incorporated cities or towns of from 2,500 to 10,000, with $30,000; and in those between 10,000 and 20,000, with $50,000. Also savings banks may be established in towns of not more than 15,000 with a capital of $30,000; and in towns from 15,000 to 30,000, with $50,000 (179, sec. 28).

Banks organized under the act relating to savings, safe-deposit, and trust banking business must have a cash paid-in capital of at least $100,000 (45, sec. 6). It has been enacted, however, that savings and safe-deposit banks may be organized with a cash capital of not less than $30,000 in incorporated towns of not more than 20,000 (R. S. 277, as amended by 189 of 1902).

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Banking associations and savings banks must not begin business until one-half of the subscribed capital has been paid in in cash. The remainder must be paid up within ninety days after the business has been begun (179, sec. 8).

The directors of every banking association and savings bank must set aside one-tenth of the annual profits, until this surplus equals 20 per cent of the capital; no dividends may be paid unless they have been earned within the preceding dividend period, and in case there are debts on which payments of principal or interest have been overdue for twelve months, no dividends may be declared till the debts in question have been charged off or reduced in value after an appraisement by the state bank examiner and two stockholders of the bank (179, sec. 30, and see also act 65 of 1900).

Banks may apparently combine general banking, savings bank, and trust company business (45, sec. 5).

II.—Liabilities and Duties of Stockholders and Directors.

The liability of a shareholder in any banking association or savings bank is limited to the unpaid portion of the original purchase price of his stock (179, sec. 10).

There must be not fewer than seven nor more than fifteen (though note that under 45 the number of directors may be whatever the articles of incorporation prescribe) directors of a banking association or savings bank; at least three-fourths of the directors, officers, and employees of every banking association and savings bank must be citizens of Louisiana; all directors of banking associations and savings banks must be citizens of the United States (179, sec. 4); a majority of the directors of a corporation organized under the savings, safe-deposit, and trust banking act must be citizens of Louisiana (45, sec. 1). Directors of banking associations and savings

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banks must meet once a month, at which meeting the cashier reports a statement of the condition of the company to the directors (179, sec. 25).

If directors consent to dealing in any merchandise, except such as is necessary to secure previously contracted debts, they become personally responsible for all damages and losses (179, sec. 11). If they assent to declare a dividend in excess of net profits, or a dividend which impairs the capital and surplus, they are liable to the creditors of the company for whatever loss occurs thereby (act 65 of 1900). In case a banking association or savings bank after having committed a continuing act of insolvency assigns its property, those officers who assist in such assignment are personally liable for the corporation's debts (179, sec. 18). Directors who participate in the reduction of reserves below the required amount are probably liable for the debts of the banking company (R. S., 301). It is a crime for a director or other officer of a banking institution or other corporation accepting deposits or loans to accept deposits or create debts with a knowledge that the corporation is insolvent. The director or officer makes himself individually responsible for such deposits or debts (constitution, art. 269, and act 108, 1884).

III.—Supervision.

The official in charge of banking in Louisiana is the state examiner of state banks. He must be an expert accountant and familiar with banking transactions; he is appointed for a term of four years (constitution, art. 194, and act 198 of 1898, sec. 1); his salary is $2,500 a year (act 198 of 1898, sec. 1); he may not receive any compensation or gift beyond this (act 198 of 1898, sec. 2).

Before doing business, every banking association and savings bank procures a certificate from the examiner, to obtain which it must furnish him with satisfactory proof of

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compliance with the statutory requirements (179, sec. 8). The articles of association under which a banking association or savings bank organizes are published in the local newspaper for four weeks (179, sec. 5); they contain such items as the domicile of the banking association or savings bank, the amount of its capital, number of shares, the names and addresses of subscribers, and the names of directors (179, sec. 7).

Whenever the examiner believes the capital of a banking association or savings bank to be impaired, he proceeds, with the assistance of two stockholders, to make an estimation of resources and liabilities; if he is then of the opinion that the capital is impaired to the amount of 20 per cent he reports the result of his findings to the auditor, who directs the banking association or savings bank to make good the impairment within two months (sec. 179, sec. 17). When the reserve of a banking association carrying on the business of a bank of discount, deposit, exchange, and circulation falls below the required amount, and remains so for ten days, the president must notify the state examiner within twenty-four hours of the end of the tenth day (179, sec. 15). This reduction of reserve probably warrants proceedings by the auditor for a liquidation of the bank's affairs (R. S., 301).

An act of insolvency or violation of law is ground for forfeiture of charter and a receivership (R. S., 284, and 179, sec. 13). Various acts of insolvency are defined. One is refusal to pay demand obligations, but the proviso is added that with the consent of the governor or the auditor of public accounts, any clearing-house association may agree to suspend payment of demand obligations when this is deemed necessary by a majority of the banks or bankers forming the association, in order to protect stockholders and creditors or avert financial panic (179, sec. 16).

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REPORTS.

Four times a year the examiner announces to each banking association and savings bank a certain past day on which the condition of each corporation is to be reported to him (179, sec. 19); each corporation within seven days after the notice reports the condition of its business on the date specified, which report is published by the examiner in such manner as to secure the greatest possible publicity, and by the banking association or savings bank in a local newspaper (179, sec. 20). The form which is furnished by the examiner includes the following items: Resources—Demand loans, loans secured by mortgage, other loans and discounts, overdrafts secured and unsecured, United States bonds, Louisiana state bonds, other bonds, stocks, securities, etc., banking-house furniture and fixtures, other real estate owned, due from banks and bankers, checks for the clearing house, checks and other cash items, lawful money reserved in bank, gold coin, silver, nickel, and copper coin, national-bank notes, and all issues of the United States Government, and suspense account. Liabilities—Capital stock paid in, surplus, undivided profits less expenses and taxes paid, due to other banks and bankers, dividends unpaid, individual savings deposits, individual deposits subject to check, time certificates of deposit, demand certificates of deposit, certified checks, cashier's checks outstanding, bills payable, notes and bills rediscounted, certificates of deposit for borrowed money, and amounts due to persons not included in the foregoing (179, sec. 21 and 22).

At the monthly directors' meeting of banking associations and savings banks the cashier reports to the directors a statement of the company's condition (179, sec. 25). Certain reports of banking institutions are required to be made for purposes of taxation (act 170 of 1898, sec. 27).

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All incorporated institutions in Louisiana receiving deposits or declaring dividends on money or evidences of indebtedness publish annually in the official journal of the State, once a week for four weeks in succession, a complete list of unclaimed deposits or other claims, of more than $10, whenever these deposits or claims are of three years' standing. When unclaimed for seven years these funds are administered as vacant estates (act 111, 1874). It is provided in a later statute (which is thought to repeal act 111 of 1874 only with respect to banking associations) that the bank examiner reports to the auditor all balances on the books of banks and trust companies that have remained uncalled for and unnoticed by the depositors for ten years (act 288 of 1908).

The examiner reports biennially to the legislature at the commencement of each session a summary of the condition of state banks, banking associations, and savings banks from which he has had reports, with an abstract of total capital, total debts and liabilities, total resources and assets, total specie held, and other useful information; suggestions with regard to the banking laws; and a statement of the banks, banking associations, and savings banks that have closed business during the preceding two years (act 198 of 1898, sec. 5).

EXAMINATIONS.

The examiner must examine all state banks at least twice every year (constitution, art. 194), when he believes the capital of any banking association or savings bank to be impaired he examines with two stockholders as described above (179, sec. 17). When in the examiner's opinion, after the examination, there is good cause to believe that any bank, banking association, or savings bank has made an incorrect quarterly return, or is not in a sound condition, or has not conformed to law, it is the examiner's duty to

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examine its affairs fully and if necessary close the operations of the institution while making a complete investigation, the results of which the examiner reports to the governor (act 198 of 1898, sec. 4, as amd. by 149 of 1900).

When a corporation organized under the act relating to savings, safe deposit and trust banking business is acting as fiduciary, the court appointing it may, if it thinks necessary, require the examiner to investigate the affairs and management of the corporation (45, sec. 2).

IV.—Reserve Requirements.

In the act for banking associations and savings banks it is provided that "every banking association carrying on the business of a bank of discount, deposit, exchange, and circulation," must keep in its office in lawful money of the United States an amount equal to 8 per cent of its demand deposits; it must also keep in lawful money on deposit, subject to sight draft, an additional amount equal to 17 per cent of its demand deposits. The remaining 75 per cent of its deposits it must keep in lawful money or in cash balances in other solvent banks, or in discounted paper having not more than twelve months in which to mature, or in such bonds as are described in section 3 of 179, given below under VI (179, sec. 14).

If the reserve falls below the requirement and remains so ten days, the president must notify the examiner. Thereafter it is not lawful for the bank to discount any new paper until the reserve has been reestablished. This, in section 15, is the only consequence (prescribed in 179) of failure to preserve the reserve. It was law before the passage of 179, however, that a violation of the reserve provisions of the Revised Statutes should be an act of insolvency for which the affairs of the company might be liquidated (R. S., 301). If R. S. 301 has been repealed,

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it is by virtue of sec. 16 of 179, as amended by act 140 of 1906.

Banks organized under the act dealing with savings, safe deposit and trust banking must maintain a reserve in lawful money of the United States or in cash due from other banks or bankers equal to 25 per cent of demand deposits; 8 per cent of demand deposits must be kept on the premises in cash; for the remainder of demand deposits there must be kept on hand lawful money of the United States or cash due from other banks, or bills of exchange, or discounted paper maturing within a year, or securities of the United States, any state, or any American public or private corporation (No. 45, sec. 5).

V.—Discount and Loan Restrictions.

No banking association or savings bank may loan to any one borrower more than 20 per cent of its stock, surplus, and undivided profits unless the loans are secured by good collateral or solvent endorsements (179, sec. 26).

No banking association or savings bank may lend to any officer or employee of the corporation engaged in its active management unless the loan is approved by the directors by a vote in which the applicant for the loan does not participate (179, sec. 26).

No banking association or savings bank may loan on a pledge of its own stock (179, sec. 9).

VI.—Investments.

Banking associations and savings banks may only hold real estate when necessary for the transaction of their business; when mortgaged to them to secure loans; when conveyed to them to satisfy previously contracted debts; and when purchased at sales under judgment or mortgage in favor of themselves (179, sec. 3).

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Banking associations and savings banks may invest in bonds of the United States, of Louisiana, of levee districts in Louisiana, and of such municipalities of Louisiana as have not defaulted in interest on their bonds for five years preceding (179, sec. 3). No banking association or savings bank may hold its own stock for a longer time than six months (179, sec. 9). Banking associations and savings banks are prohibited from dealing in cotton, sugar, or any kind of merchandise except to secure a debt previously contracted (179, sec. 11). Savings banks may buy and sell such promissory notes as are secured by good and sufficient collateral securities worth 50 per cent more than the loan (179, sec. 3).

Banks organized to conduct a savings, safe deposit, and trust banking business may hold only such real estate as is necessary for their business, or has been mortgaged to secure loans, or has been conveyed to satisfy previously contracted debts, or has been bought at a sale under judgment or mortgage. With the exception of real estate held in trust or for the transaction of their business, they may not hold real estate for a longer period than ten years. These corporations may hold such personal property, including securities of the United States or of any State of the United States or of any public or private corporation, as may be necessary or convenient to the objects of the corporations (45, sec. 1).

VII.—Overdrafts.

Overdrafts are allowed, for they are referred to in the list of resources in reports (179, sec. 22) and also in another enumeration of assets of banking corporations (179, sec. 30).

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VIII.—Branches.

Corporations organized under the savings, safe deposit, and trust banking law may have "one or more offices of discount and deposits" in the municipality or parish where the company is located (45, sec. 7).

X.—Unauthorized Banking.

The business of banking may be carried on only by corporations organized under the laws of Louisiana or of the United States, by individual citizens of Louisiana, and by firms domiciled in Louisiana whose active members are citizens of Louisiana. Unless incorporated no banker shall use the title "banking association," or "savings bank" (179, sec. 1). Every savings bank must make use of the words "savings bank" in its title (179, sec. 3).

XI.—Penalties.

If a banking association or savings bank begins business without authority from the examiner, or without its capital having been paid up, it is punished by a fine not exceeding $500 laid upon the directors and managers (179, sec. 8). Moreover, banking associations and savings banks that do not complete their required capital may lose their charters (179, sec. 29). The banking association or savings bank that violates the rule requiring a surplus, or that forbidding the payment of dividends unless earned forfeits $500 (179, sec. 30). The banking association which is guilty of a continuing act of insolvency forfeits its corporate rights (179, sec. 13). If the president of a banking association carrying on the business of a bank of discount, etc., does not report an impairment of reserve within eleven days, the banking association forfeits $10 per day (179, sec. 15).

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The banking association or savings bank which fails to transmit its report to the examiner, publish it, and furnish proof of the publication, becomes liable to a penalty of $50 (179, sec. 20). A further provision of the same act makes it the duty of the district attorney of the local parish to sue the banking association or savings bank that fails to furnish its report on time for a penalty of $100 (179, sec. 23). Any incorporated institution receiving deposits or declaring dividends on money or evidences of indebtedness must, if it fails to publish its unclaimed deposits, etc., pay a penalty of $1,000; if, after suit for this $1,000 has been begun, the institution still fails to publish, it becomes subject to a further penalty of $2,000 a month (act 111 of 1874, sec. 3). So far as it relates to state banking associations this penalty for not publishing unclaimed deposits is thought to be repealed by act 288 of 1908.

A banking association or savings bank that holds its own stock for a longer period than six months forfeits $10 per month per share (179, sec. 9). The banking association or savings bank that deals illegally in merchandise forfeits not more than $1,000 (179, sec. 11).

The director or other officer who receives deposits after a banking institution has become insolvent is liable to imprisonment of from five to ten years (act 108 of 1884, sec. 2). The director or officer of a banking association or savings bank who assents to a violation of the section dealing with the limit of loans to individuals and to officers is fined $500 (179, sec. 26). The directors, officers, etc., of banking companies, who perpetrate various frauds, among them concealment of the condition of the bank from the examiner, are liable to imprisonment of from one to three years (R. S., 877). The cashier of any banking association or savings bank who fails to notify stockholders and directors of meetings, or to present to the directors a statement of the affairs of the corporation at the monthly

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meeting, suffers a penalty of $25 (179, sec. 25). Officers of a banking association or savings bank who fail to keep proper accounts are subject to a penalty of $25 per month (179, sec. 27).

Any examiner who receives extra compensation is guilty of a misdemeanor, punishable by $500 fine, in default of payment of which he is imprisoned from six months to one year (act 198 of 1898, sec. 2).

Any person who maliciously circulates false statements attacking the financial condition of any bank organized under Louisiana law is guilty of a misdemeanor punishable by fine, imprisonment, or both (act 251 of 1908.)

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MAINE.

The digest for Maine is based upon a compilation of the statutes issued by the banking department of the State, including all laws through the session of 1907. This compilation has been compared with the statutes themselves and found to include all material laws, except a few sections; these are added in the digest, together with amendments contained in two short statutes of 1909. Chapter 48 of the Revised Statutes, which include legislation through the session of 1905, is entitled "Savings banks, Loan and building associations, Trust and banking companies, Foreign banking corporations." Many of the provisions of chapter 48 apply clearly to savings banks. Those which apply to building and loan associations, etc., are omitted from the digest. The remaining sections apply to "trust and banking companies." These sections are supplemented by an act passed in 1907 which states in its title that it is additional to and amendatory of chapter 48, and that it relates to the organization and management of trust companies. Under it, trust companies are all given banking powers, and by one of its sections, a section of chapter 48 dealing with banking and trust companies is amended, using in the amendment the words simply "trust companies." It is believed, therefore, that none of the provisions of the Maine statutes applies simply to banks; so the digest is arranged under the heads simply

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of "Savings banks" and "Trust companies." The references in the digest are either to the Revised Statutes, in which case they begin with the letters R. S., or to the public laws of 1905 or 1907, in which case the year is indicated. Where statutes of 1905, 1907, or 1909 amend directly a section in the Revised Statutes, the section is, for the sake of saving space, cited by its number in the Revised Statutes simply, considering the amendment as incorporated in it. The chapter is given in each case, and the number following is the section in the chapter.

SAVINGS BANKS.

I.—Terms of Incorporation.

The statute contemplates savings banks without capital stock (R. S., chap. 48, 3). Three-fourths of the incorporators must reside in the county where the bank is to be located, and all members added to the number of original incorporators must be citizens of that county or one adjoining it (R. S., chap. 48, 4 and 12). There must be at least thirty members; removal from the State or failure for two successive years to attend annual meetings is equivalent to resignation (R. S., chap. 48, 12).

Dividends must not exceed 2½ per cent semiannually, except as appears below. After passing the required amount to reserve fund (one-fourth of 1 per cent of the average deposits for the preceding six months) the trustees accord dividends to depositors of three months' standing at least, unless the by-laws provide that the period be shorter. When the reserve fund amounts to 10 per cent of the average deposits for the six months previous to the declaration of a dividend, all net profits still remaining are divided every three years among depositors of one, two,

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and three full years' standing as extra dividends. Dividends must always be within the amount of actual earnings (R. S., chap. 48, 28). No deposits may be received under an agreement to pay a specified sum of interest (R. S., chap. 48, 30).

The assets of a savings bank that is connected with a "national or stock bank" must be kept separate from the assets of the national or stock bank (R. S., chap. 48, 34). This reference to a "stock bank" is the only intimation in the statutes of the possibility of such a bank as different from a trust and banking company.

II.—Liabilities and Duties of Trustees.

There must be not less than five trustees, not more than two of whom are allowed to be directors in any one national bank, trust company, or other banking institution (R. S., chap. 48, 13). There are restrictions upon the positions in other banking institutions which savings bank officers may hold; and it is provided that if the treasurer of a savings bank having deposits not exceeding $150,000 is cashier of a national bank or a trust and banking company, the board of trustees of the savings bank must not include more than one director nor more than two stockholders in the national bank or trust and banking company thus connected with the savings bank (R. S., chap. 48, 14). A trustee who becomes a trustee or officer of another savings corporation vacates his office (R. S., chap. 48, 15). The trustees may receive such compensation for their services in making examinations and returns as may be fixed by the corporation in meeting (R. S., chap. 48, 16). It is the duty of at least two of the trustees once a year to make the examination described below (R. S., chap. 48, 39). No officer of a savings bank may take a fee or commission on account of a transaction to which the bank is a party (R. S., chap. 48, 40).

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III.—Supervision.

The state officer who supervises banking is the bank commissioner, who holds office for three years and must not be an officer in any bank in the State (R. S., chap. 48, 1). His salary is $2,500 a year (1905, chap. 159). The bank commissioner approves of the place chosen to deposit the securities held by savings banks; they must be kept within the State (R. S., chap. 48, 35).

Before granting permission to a savings bank to do business, the commissioner determines whether there will be greater access to a savings bank afforded a considerable number of people by opening the one proposed, and whether the responsibility, character, etc., of the incorporators are such as to command confidence (R. S., chap. 48, 7). He does not grant a certificate unless satisfied of these points and that the organization as proposed will be a public benefit (R. S., chap. 48, 8). He may require a savings bank to charge down its investments on its books to what he considers a proper value (1909, chap. 149, amending R. S., chap. 48, 23).

If upon examination the commissioner is of opinion that any savings bank is insolvent or that its condition is such as to make its further proceedings hazardous, he must apply for an injunction to stop its business. If he is of opinion that it has exceeded its powers or has failed to comply with law, he may apply for the injunction. The court may grant such decrees as the case warrants, including the appointment of receivers (R. S., chap. 48, 44). Their conduct of the liquidation is detailed (R. S., chap. 48, 45, 46, and 47). If a savings bank is insolvent on account of depletion in its assets without fault of its trustees, then, on petition of a majority of the trustees and the bank commissioner, the court may set a time for examination, and, on being satisfied that the corporation has complied

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with law, may decree a reduction of deposits of each depositor so as to divide the loss pro rata. The savings bank then proceeds with its business with the deposits as reduced, although if such a sum is realized from the assets as to make it possible to set the deposits at their original figure or raise them toward it, that is done (R. S., chap. 48, 48). The court may grant orders restraining the paying out of funds, the declaration of dividends, etc. (R. S., chap. 48, 49). Voluntary liquidation under order of court is provided for at the request of the commissioner and a majority of the trustees (1907, chap. 128).

REPORTS.

After the annual election a list is published of officers and incorporators; the same list is transmitted to the commissioner (R. S., chap. 48, 17). The treasurer of every savings bank, on forms furnished by the commissioner, annually reports its condition at such time as the commissioner designates, transmitting the report to him within fifteen days after receipt of his request (R. S., chap. 48, 37). At least two trustees annually, after examining the affairs of the savings bank and settling the treasurer's account, report the condition of the bank to the commissioner, on blanks furnished by him, and after notice from him (R. S., chap. 48, 39). The treasurer publishes annually in a local newspaper a statement of the name, the amount standing to his credit, residence and fact of death, if known, of every depositor who has not dealt with his deposit for more than twenty years, this does not apply if the treasurer knows the depositor to be living. A copy of this statement is sent to the commissioner (R. S., chap. 48, 38). Receivers of savings banks report annually to the commissioner, or oftener if he requires (R. S., chap. 48, 44).

(For reports required of savings banks for purposes of taxation, see R. S., chap. 8, 53 *et seq.*)

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Annually the commissioner reports to the governor and council the condition of all savings banks he has examined, with such suggestions as he deems expedient (R. S., chap. 48, 50).

EXAMINATIONS.

Weekly balances and annual statements of the amount of individual deposits, with the aggregate of deposits, are required of the treasurer (R. S., chap. 48, 36). At least two of the trustees once a year examine the affairs of the savings bank, settle the treasurer's account, and report to the bank commissioner the condition of the savings bank as he requires (R. S., chap. 48, 39). The commissioner or one of his clerks as deputy visits every savings bank once a year, and oftener if he deems it expedient, to inspect its affairs, its ability to fulfill its engagements, and its compliance with law. A copy of the commissioner's statement is published in a local newspaper (R. S., chap. 48, 1 and 42).

V.—Discount, Loan, and Deposit Restrictions.

No loan may be made to any officer of a savings bank or a firm of which he is a member (R. S., chap. 48, 27). No savings bank may hold as security for loans more than one-fifth of the capital stock of any corporation (R. S., chap. 48, 25).

Savings banks must not receive from any one depositor over $2,000, no interest is allowed to be paid to any depositor if his deposits, including dividends, exceed that sum, except in the case of deposits of widows, orphans, etc., charitable institutions, and trust funds (R. S., chap. 48, 19). Deposits may not be received under agreement for a specified rate of interest (R. S., chap. 48, 30). No savings bank is required to pay any depositor more than $50 at a time or in any month until after ninety days' notice (R. S., chap. 48, 31).

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(For other provisions concerning loans, see VI, Investments, *infra.*)

VI.—INVESTMENTS.

Real estate in the city or town in which a savings bank is located may be held by the savings bank to an amount not exceeding 5 per cent of its deposits, or to an amount not exceeding its reserve fund (R. S., chap. 48, 24).

Deposits may be invested only as follows: First—(*a*) In public funds of the United States and the District of Columbia; (*b*) in the public funds of any of the New England States and of certain other enumerated States. Second—(*a*) In the bonds of municipalities of New England States; (*b*) in the bonds of cities and districts of enumerated States having a population of 75,000 or more, if issued for municipal purposes and a direct obligation on all taxable property; (*c*) in bonds of counties of 20,000 inhabitants or more in enumerated States if issued for municipal purposes and a direct obligation on all taxable property and not issued in aid of railroads, provided that the net indebtedness of the county does not exceed 5 per cent of the valuation of its property for taxes; (*d*) in bonds of any city of 10,000 or more, in enumerated States, if issued for municipal purposes and a direct obligation on all taxable property and not issued in aid of railroads, provided that the net indebtedness of the city does not exceed 5 per cent of the valuation of its property for taxes; (*e*) in refunding bonds of counties and cities above enumerated issued to take up legally issued bonds, provided interest has been fully paid on the original bonds for five years prior to the refunding, and provided the counties and cities can otherwise meet the foregoing conditions; (*f*) in bonds and obligations of school district boards, boards of education, etc., "in such cities," authorized to issue bonds payable from taxes levied on all the

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property in the district, provided the population of the district is 10,000 or more, and the population and assessed valuation of the district are at least 90 per cent of population and valuation of the city in which the district is located, and provided the net indebtedness of the district does not exceed 5 per cent of its property as valued for taxes; (*g*) in bonds or obligations of municipal or quasi-municipal corporations of Maine if a direct obligation on all the taxable property of the corporation. Third—(*a*) In railroad bonds of Maine; (*b*) in first-mortgage bonds of railroads in enumerated States; (*c*) in first-mortgage bonds of three named railroads; (*d*) in mortgage bonds of a railroad leased to a dividend-paying railroad in New England, if the lessee guarantees dividends and interest of the lessor; (*e*) street railroad companies are not railroad companies for investment purposes; (*f*) in bonds of street railroads in Maine and in first-mortgage bonds of street railroads in other enumerated States, provided in general, with certain minor distinctions, that the paid in capital stock equals 33⅓ per cent of the mortgage debt and has been expended on the road, or that annual dividends of 5 per cent have been paid for five years on an amount of capital stock equal to one-third of the bonded debt; no bonds secured by an open mortgage are legal under this provision unless the mortgage provides that the total outstanding bonds shall never exceed 75 per cent of the cash expended on the road; (*g*) in refunding bonds which are of an issue to retire the entire funded debt under the conditions as applied to first-mortgage bonds in (*b*), (*c*), and (*f*) of the above, and which are secured by a first mortgage on the whole or any part of the system. Fourth—In the mortgage bonds of New England water companies earning more than fixed charges, interest on debts, and running expenses. Fifth—In bonds of other corporations of Maine paying 5 per cent dividends.

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Sixth—(*a*) In stock of any bank or banking association incorporated under the laws of Maine; (*b*) in the stock of national banks in New England; (*c*) in the stock of railroad companies of Maine unincumbered by mortgage; (*d*) in the bonds, stocks, or notes of any New England railroad which has paid annual dividends of 5 per cent on capital equal to one-third of its funded debt for ten years, and in the stock or notes of four enumerated railroads; (*e*) in the stock of any railroad leased to a dividend-paying railroad in New England, if the lessee guarantees dividends and interest of the lessor; (*f*) in the stock of other Maine corporations earning regular dividends of not less than 5 per cent a year. Seventh—(*a*) In loans secured by first mortgages of real estate in Maine and New Hampshire to an amount not exceeding 60 per cent of the value of the real estate; (*b*) in notes with a pledge as collateral of securities in which the bank might invest, provided the market value of the collateral is equal to the amount of the loan; (*c*) in notes with a pledge as collateral of any savings bank deposit book issued by a Maine savings bank; (*d*) in notes with a pledge as collateral of such funds, bonds, notes, or stocks as in the judgment of the trustees it is for the interest of the bank to accept, to an amount not exceeding 75 per cent of their market value; (*e*) in loans to municipal corporations of Maine; (*f*) in loans secured by a mortgage of personal property, if the trustees approve; (*g*) in loans to corporations owning real estate in Maine and conducting their business in Maine. Ninth—There are provisions for valuing investments on the bank's books, under supervision of the commissioner, who may also require reports of corporations whose securities are, or are likely to become, savings bank investments (R. S., chap. 48, 23).

No savings bank may hold more than one-fifth of the capital stock of any corporation; no savings bank may

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invest more than 10 per cent of its deposits, nor exceeding $60,000 in the stock or notes of any corporation; no savings bank may have more than 50 per cent of its deposits in mortgages of real estate. The provisions of this paragraph, however, and of the two preceding paragraphs, do not apply to real estate or other assets acquired by foreclosure or judgment, or in settlements to secure debts, nor does this paragraph apply to bonds enumerated under First, Second, Third, Fourth, and Fifth of the paragraph above (R. S., chap. 48, 25).

Savings banks may deposit on call in Maine banks or banking associations or national banks (R. S., chap. 48, 26).

X.—Unauthorized Banking.

Whoever, not authorized by law, advertises his business as that of a savings bank, or receives deposits under that pretense, forfeits $100 for each offense (R. S., chap. 48, 52); it was so provided in the Revised Statutes, but a law of 1905 apparently changes the provision by enacting the following: No person, firm, or corporation, excepting those authorized under Maine or United States law to conduct a bank or trust company business, may use as part of their name the words "bank," "savings," etc.; the persons violating this either individually or as members of a partnership or persons interested in a corporation may be punished by fine of not more than $1,000, imprisonment for not less than sixty days nor more than one year, or both (1905, chap. 171).

XI.—Penalties.

If the clerks of a savings bank do not publish the list of officers and incorporators required, and return a copy of this list to the commissioner, any clerk offending is liable to a penalty of $50 (R. S., chap. 48, 17). If the treasurer

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of a savings bank neglects within sixty days after the declaration of a dividend to credit it to the proper deposit account he is punished by a fine of from $100 to $200 (R. S., chap. 48, 29). If the treasurer of a savings bank fails to publish the annual report of undisturbed deposits and transmit to the commissioner he is liable to a penalty of $50 (R. S., chap. 48, 38). Whoever obstructs the commissioner in the discharge of his duty is fined not exceeding $1,000 or imprisoned not exceeding two years (R. S., chap. 48, 43). Any officer of a savings bank who receives a commission on account of the transaction to which the bank is a party forfeits $100 for each offense (R. S., chap. 48, 40). Any officer of a corporation who reports falsely to the commissioner when required to report information with respect to its securities as savings bank investments, and any officer, employee, etc., of a savings bank or trust company who undertakes to deceive the commissioner with respect to the value of the investments of the bank or trust company, suffers a fine of not more than $500, imprisonment for not more than two years, or both fine and imprisonment (1909, chap. 149, amending R. S., chap. 48, 23). Violations of law by a savings bank or its officers or trustees, unless otherwise prescribed, are punishable by a fine of from $100 to $500 (R. S., chap. 48, 51).

TRUST AND BANKING COMPANIES.

(The above is the phraseology of the sections in chapter 48 which apply to this sort of companies. Chapter 96, of 1907, is phrased to apply to "trust companies;" and it gives them, in section 1, power to receive deposits.)

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I.—Terms of Incorporation.

The proposed incorporators of a trust company apply to the examiner for a certificate that public convenience will be promoted by the establishment of the corporation. If he refuses to issue this certificate, the application may not be renewed for a year (1907, chap. 96, 3).

Stock must be paid in at its par value in cash (1907, chap. 96, 6). The minimum amount of paid-in capital for trust companies is $25,000 in towns or cities of not more than 5,000; $50,000 in those from 5,000 to 10,000; $75,000 in those from 10,000 to 20,000; $100,000 in those from 20,000 to 30,000; and $150,000 in those of over 30,000. Shares must be of $100 each (1907, chap. 96, 8). The maximum of capital stock for a trust company is $1,000,000 (1907, chap. 96, 10).

Every trust and banking company must set apart as a guaranty fund or surplus not less than 10 per cent of its net earnings for each year until this fund with accumulated interest amounts to one-fourth of the capital stock (R. S., chap. 48, 81).

The assets of any savings bank connected with a national or stock bank must be kept separate from the assets of the national or stock bank (R. S., chap. 48, 34). All property held in trust, and the accounts concerned with that property, must be kept separate. Trust funds and the investments or loans of them are not subject to the other liabilities of the company (1907, chap. 96, 14).

II.—Liabilities and Duties of Stockholders and Directors.

The shareholders in a trust and banking company are individually liable for the contracts and debts of the company to a sum equal to the par value of their shares and

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in addition to the amount invested in them (R. S., chap. 48, 86).

There must be not fewer than five directors, two-thirds of whom must be residents of Maine. At the option of the stockholders the affairs of the company may be entrusted to an executive board of not less than five members, two-thirds of whom must be residents of Maine, elected from the directors (1907, chap. 96, 11). Each director must own ten shares of stock (1907, chap. 96, 13). The directors or the executive board constitute a board of investment; they keep accurate accounts of loans and investments in such form as the examiner directs (1907, chap. 96, 12).

Directors who are implicated in making excessive loans to one person, firm, or corporation, or who vote for loans to directors, officers, and employees, or are implicated in the payment of such loans, are personally liable for the payment of them (1907, chap. 96, 22).

III.—Supervision.

The commissioner referred to under Savings banks supervises trust and banking companies as well (R. S., chap. 48, 79). He determines if public convenience will be promoted by the establishment of any proposed trust company (1907, chap. 96, 3). He passes upon the proposed establishment of branches (1907, chap. 96, 21). He passes upon such reserve depositaries as are not located in Maine (R. S., chap. 48, 80). When he finds that a corporation has made an illegal loan, he orders it reduced (1907, chap. 96, 22).

He has the same control with regard to liquidating the affairs of a bank or trust company that he has over savings banks—that is to say, he must, according to the provisions of Revised Statutes, chapter 48, section 44, apply for an injunction, if upon examination he thinks

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a company insolvent or in such condition that its continuing business is hazardous for the public; he may apply if he thinks it has exceeded its powers or failed to comply with law. The court then grants whatever decree the facts warrant, including the appointment of receivers if necessary (R. S., chap. 84, 79).

The commissioner licenses foreign investment corporations and has authority over them (R. S., chap. 84, 89 *et seq.*). (See also 1905, chap. 73.)

REPORTS.

A preliminary report, consisting of a complete list of stockholders' names, residences, and number of shares held by each is filed with the bank commissioner before incorporation (1907, chap. 96, 6). After the election of directors the company publishes a list of them (1907, chap. 86, 11). Every trust company must report its condition at such times as the bank commissioner requires, and publish the report as he directs (1907, chap. 96, 18). At least two directors annually, when notified by the commissioner, report on blanks furnished by him, and publish the report if he requires (1907, chap. 96, 19). Receivers of banking and trust companies must report annually, and at such times as the commissioner requires, the progress made in the settlement of the corporation's affairs; the commissioner gives notice of this report and furnishes blanks for it (R. S., chap. 48, 44).

(For reports required of trust and banking companies for purposes of taxation see R. S., chap. 8, 64 *et seq.*)

Annually by December 1 the commissioner reports to the governor and council the general condition of each banking and trust company, making such suggestions as he deems expedient (R. S., chap. 48, 79).

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EXAMINATIONS.

When all the capital stock of a trust company has been issued and a statement made to the commissioner, he makes a preliminary examination to assure himself that the statement is true and that preliminaries have been complied with (1907, chap. 96, 6). At least two directors make an annual examination, the result of which they report to the commissioner (1907, chap. 96, 19). Every bank and trust company is visited by the commissioner or one of his clerks acting as deputy once a year, and oftener if he thinks it expedient. The affairs are investigated to determine its condition, its ability to fulfill its obligations, and its compliance with the law. The statement of the examination made by the commissioner is published in a local newspaper (R. S., chap. 48, 1 and 42).

IV.—Reserve Requirements.

Every trust and banking company having authority to receive money on deposit must keep on hand in lawful money or national-bank notes as a cash reserve an amount equal to at least 15 per cent of its deposits that are subject to withdrawal on demand or within ten days; two-thirds of this 15 per cent may be in balances payable on demand, due from national banks or trust companies of Maine, or from any trust company located in other New England States or in New York, approved by the commissioner. One-third of the 15 per cent may consist of bonds of the United States, the District of Columbia, any New England State, and certain enumerated States. When the reserve falls below the requirement no new loans may be made (R. S., chap. 48, 80).

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V.—Discount and Loan Restrictions.

No trust company may loan to a person, firm, or corporation an amount in excess of 10 per cent of its capital, surplus, and undivided profits, except on approval of a majority of the whole investment board, unless secured by collateral; nor in excess of 25 per cent, except on the same approval and secured by collateral which in the judgment of a majority of the investment board is of value equal to the excess of the loan above the 25 per cent. The discount of bills of exchange and of commercial paper owned by the person actually negotiating it is not considered as money borrowed (1907, chap. 96, 16).

No trust company may loan to its directors, officers, or employees, or make a loan on which an officer, director, or employee is surety, or to any firm in which an officer, director, or employee is a member, or to any person or on the indorsement of any person who is a partner of an officer, director, or employee, or to any corporation in the management of which a director, employee, or officer is interested, until the directors or the executive committee have by a majority vote, exclusive of the director interested, approved. The provisions of this paragraph do not prevent a trust company from giving to a person, firm, or corporation a line of credit for a period of six months to an amount not exceeding 25 per cent of capital, surplus, and undivided profits, subject to the restrictions as to percentage of entire board and right of interested persons to vote contained in this paragraph and the paragraph next preceding (1907, chap. 96, 17, amending R. S., chap. 48, 82).

Trust and banking companies must not loan on the security of their own stock unless it is necessary to prevent loss upon previous debt, in which case the stock must be gotten rid of within a reasonable time (R. S., chap. 48, 83).

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VI.—INVESTMENTS.

The board of directors or the executive board of every trust company constitutes the board of investment. They keep a record of all loans and investments, indicating such particulars as the bank examiner directs (1907, chap. 96, 12). Trust and banking companies must not hold shares of their own stock unless it is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within a reasonable time (R. S., chap. 48, 83). Every trust company may hold "such estate, real, personal, and mixed as may be obtained by the investment of its capital stock" (1907, chap. 96, 1).

VIII.—BRANCHES.

No trust company may establish a branch in any city or town other than that in which the parent institution is located until it has received a warrant to do so from the bank commissioner, who is to issue this warrant only if he is satisfied that public convenience and advantage will be promoted by the establishment of a branch, and that the unimpaired capital of the parent institution is sufficient to comply with the provisions for minimum capital, reckoning the aggregate population of the home city and of all cities and towns in which the company is authorized to establish branches, including the one now proposed. No trust company may establish a branch except in its own or in an adjoining county (1907, chap. 96, 21).

X.—UNAUTHORIZED TRUST COMPANY BUSINESS.

No person, firm, or corporation excepting those duly authorized under Maine or United States law to conduct a bank or trust company business may use as part of their name the words "bank," "savings," "savings department," "trust," "trust and banking company," etc.

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Anyone violating this rule either individually or as a member of a firm or as one interested in a corporation, is liable to a fine not exceeding $1,000, imprisonment not less than sixty days nor more than one year, or both (1905, chap. 171). No person may, as a private banker not specially authorized by the legislature, transact any banking business except that of discount and deposit; the penalty for this with other offenses enumerated in the section is $1,000 for each offense (R. S., chap. 48, 2).

XI.—Penalties.

Refusal on the part of officers, agents, etc., of a trust and banking company to be examined, or any obstruction of examination, entails a fine of not more than $1,000 or imprisonment not exceeding two years (R. S., chap. 48, 43). Directors, officers, and employees who are implicated in granting a loan in excess of the amount allowed to be made to any person, firm, or corporation, and directors who vote for a loan in violation of the provisions against loans to officers, directors, and employees, or who use money or are implicated in the payment of such a loan, are guilty of a misdemeanor (1907, chap. 96, 22). See Savings Banks, XI, for the penalty for undertaking to deceive the bank commissioner as to the value of investments (1909, chap. 149).

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MARYLAND.

The Maryland statutes are in the Public General Laws, published in 1904, and in the acts of 1906 and of 1908. In the Public Laws, Article XI is entitled "Banks;" and Article XXIII, "Corporations," contains certain sections (318–321) which deal with savings institutions; others (339–342) which prescribe the conditions on which trust, surety, and fidelity companies may become surety on official bonds; and others (94–107, slightly amended in 1908) which deal with safe deposit, trust, guaranty, loan, and fidelity companies. The article on banking is incomplete and much of it not pertinent to the matters covered by the digest. It is not always clear to what sorts of banking corporations each section applies. The language is in one section "every bank and incorporated institution in this State which is in the habit of receiving deposits and declaring dividends" (5), in another, "every banking association authorized by its charter to do a banking business" (12), in others clearly directed to savings banks (8, etc.). What makes it seem clear that the article for the most part is meant to apply to all corporations doing a banking business is the language of section 37, which provides that certain named sections of the article shall not apply to savings banks having no capital stock, nor to corporations authorized to do a trust, fidelity,

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surety, or deposit business. It is likely, therefore, that all the provisions given in the digest under "Banks" apply to savings banks and trust companies, except as overridden by provisions digested under "Savings banks" and under "Trust companies." The provisions for savings banks and trust companies are so meager that it has not been thought worth while to separate them completely under the headings used generally in the digest. Citations which are simply numbers in parentheses are to sections in Article XI.

BANKS.

I.—Terms of Incorporation.

Every bank in Baltimore must have a capital of not less than $300,000 nor more than $2,000,000, divided into shares of $100 each. Not less than $300,000 must be fully paid in lawful money of the United States before the corporation can do business (21). Every bank located outside Baltimore must have a capital of not less than $50,000, nor more than $500,000, divided into shares of $100 each. Not until $50,000 has been paid in lawful money of the United States may the bank begin business (22).

Every stockholder is entitled to one vote for every share he holds up to ten; to one vote for every additional two shares up to one hundred; and to one vote for every additional five shares above one hundred. Shares must have been held for four months before the election to entitle the shareholders to vote (25, art. 1). Half-yearly dividends are made to stockholders out of net profits (25, art. 9).

Limitations on the amounts of debt which a bank may owe are stated under V, *infra*.

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II.—Liabilities and Duties of Stockholders and Directors.

The stockholders in every "banking corporation" are liable "to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities upon note, bill, or otherwise" (29, and constitution, Art. III, sec. 39).

There must be not fewer than five nor more than seven directors, each a stockholder and a citizen of Maryland (24, and 25, art. 2). No director may be at the same time director of any other bank in Maryland. Once a year the directors lay before the stockholders a statement of debts remaining unpaid, and surplus profits (25, art. 3). If the debts of a bank become greater than its capital, the directors under whose administration the excess is created are liable personally for the excess (25, art. 7). If the directors knowingly declare a dividend which impairs the capital stock the directors implicated are individually liable to the corporation for the proportion of capital so divided (25, art. 9). Directors receive only such pay as is voted at a stockholders' meeting (25, art. 10).

III.—Supervision.

There seems to be no official charged with the duty of superintending banks. The treasurer of the State appoints an examiner for the purpose merely of making examinations (33). When the treasurer of the State is satisfied that "any of the associations mentioned in this article" (this language, broad as it is, does not, of course, include national banks, although they are mentioned in the article) has failed to comply with the provisions of the article, he declares, with the approval of the governor, that the charter of the corporation is forfeited, and, with the assent of the governor, appoints a receiver who acts subject to the control of the local court (34).

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REPORTS.

Every bank reports to the treasurer of the State not less than five times each year according to the form prescribed by the treasurer. Each report shows the resources and liabilities of the bank at the close of business on a past day specified by the treasurer, to whom it is transmitted within five days of the receipt of the request. A summary of the report is published in a local newspaper. The treasurer may call for special reports when in his judgment necessary (12). A further provision of the same article requires that the treasurer of the State be furnished with a statement of amount of capital; amount of debts due to the corporation and from it, specifying those due from and to other banks; deposits; cash on hand, specifying coin and notes of other banks; value of real estate held; and amount and value of stocks held—showing these details at the close of business on the first Monday of January and the first Monday of July. These statements are required to be published (25, art. 4).

(For reports required for purposes of taxation see Public General Laws, Art. LXXXI, sec. 156 *et seq.*)

Banks must cause to be published in a local newspaper once a week for three weeks in September of each year a list of the deposits and dividends unclaimed for three years or more, with the names of the depositors so credited, and amounts (5).

EXAMINATIONS.

The treasurer, with the approval of the governor, appoints an examiner to visit "each and every association mentioned in this article, doing business in this State (excepting state banks which may be members of the Baltimore clearing association, and as such required regularly to submit to examination by a national bank

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examiner)," at least once a year, or oftener if in his judgment necessary (33).

V.—Discount and Loan Restrictions.

No loan may be made by a bank to Maryland or the United States to an amount exceeding $50,000, or to any other State of the Union or to a foreign state to any amount whatever (25, art. 17).

The total amount of debts which a bank may at any one time owe must not exceed the amount of paid in capital, but money deposited in the bank "for safe keeping" is not for this purpose considered as debts of the bank (25, art. 7).

VI.—Investments.

A bank may own only such real estate as is requisite for the convenient transaction of its business, and such as has been mortgaged to it, conveyed to it in satisfaction of debts, or purchased by it at sales on judgments obtained for such debts. Real estate thus purchased at judgment sale must not be held for longer than three years, if judicious sale can be made in the three years (25, art. 13).

A bank must not trade in anything except commercial paper and bullion, or the produce of its lands or of chattels taken as security, conveyed to it to satisfy debts, or purchased at judicial sales in enforcing debts. A bank, however, may make temporary investments of its funds by purchase of the public debt of the United States, of any State, of Baltimore, or of the county or city where the bank is located (25, art. 14).

XI.—Penalties.

If any bank fails to publish unclaimed deposits its president is liable to a fine of from $50 to $100 (7).

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SAVINGS BANKS.

TERMS OF INCORPORATION.

There may be savings banks without capital stock, for certain sections of Article XI are expressly made inapplicable to "savings banks having no capital stock" (37); these sections are 12, the provision for at least five reports every year; 33, the provision for examinations at least annually by an examiner appointed by the treasurer; 34, the provision for voiding charters and appointing receivers when banks violate the law; and 35 and 36, provisions exempting banks from other examinations, and providing a scale of fees for examinations. There may also be savings banks with capital stock, however, for it is provided that the capital stock of any savings bank incorporated under the general corporation law must not exceed $1,000,000 (Public General Laws, Art. XXIII, sec. 321). A section just preceding the one cited requires directors to make "such dividends" to the depositors at least every six months out of the interest and profits of the institution as will not impair its deposits or credit (Public General Laws, Art. XXIII, sec. 319); the use of "dividends" in this section is odd if the corporation contemplated is one in which there are stockholders.

REPORTS AND EXAMINATIONS.

The provisions for publication of unclaimed deposits do not apply "to savings banks nor to institutions which receive deposits and compound the interest and dividends as they become due" (5); that is because the statute provides especially for that sort of report by savings banks. In October of every second year the treasurer of each savings bank delivers to the comptroller a written statement containing the name of every depositor, with the amount standing to his credit, who has not deposited or

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withdrawn money for twenty years. This does not apply to persons known by the treasurer of the savings bank to be living. The comptroller inserts these statements in his next report to the legislature (8). These provisions for reports of unclaimed deposits are in the article on banks. In the article on corporations the savings bank sections include a provision requiring directors to appoint every twelve months five competent members of the corporation as a committee of examination, who after making an examination publish a report of it in a local newspaper (Public General Laws, Art. XXIII, sec. 319). Reports of savings banks for purposes of taxation are dealt with in Public General Laws, Article LXXXI, section 89.

LOANS.

A provision of the savings bank sections in the article on corporations forbids loans to be made to an officer or director (Public General Laws, Art. XXIII, sec. 318).

PENALTIES.

A special savings bank penalty provided for in the article on banks is that of $500 for each failure of the treasurer of a savings bank to report unclaimed deposits (9).

TRUST COMPANIES.

(The fact that section 37 of Article XI provides that certain sections do not apply to corporations authorized by their charters to transact a trust, fidelity, surety, or deposit business implies that the other sections of the article do; and in some cases the terms of the individual sections may include trust companies—"every bank and incorporated institution in this State which is in the habit of receiving deposits," for example (5). The provisions which are expressly withheld from operating on trust

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companies are the same that were given under savings banks—five reports a year (12); annual examinations (33); receivership proceedings for failure to comply with the provisions of the article (34), etc. The matters covered by sections 339–342 of Article XXIII, prescribing conditions on which trust, surety, and fidelity companies may become surety on official bonds, with particular reference to foreign corporations, have not been included in the digest. Sections 94–107, legislating for trust companies upon those subjects with respect to which trust companies are exempted from the provisions of the banking chapter, are digested below; these sections are generally made applicable to every "safe deposit, trust, guaranty, loan, and fidelity company.")

STOCKHOLDER'S LIABILITY.

The stockholders in every "safe deposit, trust, and loan company" are personally liable for the contracts, debts, and engagements of the corporation to the amount of their stock at par, in addition to the amount invested in the stock (Public General Laws, Art. XXIII, sec. 104, amd. by 1908, chap. 153).

SUPERVISION.

Trust companies which do a "security or guarantee business" must deposit securities worth $100,000 with the state treasurer in trust for the holders of the company's guarantees; other trust companies deposit securities worth 15 per cent of the corporation's paid-up capital, and not less than $30,000, in trust for depositors and creditors. The securities must be of certain sorts (Public General Laws, Art. XXIII, secs. 98 and 106). Doing business without having made the required deposit entails a $100 a day forfeit (Public General Laws, Art. XXIII, sec. 99, amd. by 1908, chap. 385).

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If it appears to the treasurer from an examination that a trust company has violated its charter or the law, or is conducting its business unsafely, he orders a discontinuance of the illegal or unsafe practices; if any corporation fails to obey an order or refuses to report, or if it appears to the treasurer inexpedient for the corporation to continue business, he communicates with the attorney-general, who institutes proceedings (Public General Laws, Art. XXIII, sec. 97).

REPORTS.

Every trust company which receives money on deposit or assumes any obligation in Maryland must report semi-annually its condition at the close of business on the last days of June and December, showing amount loaned on bond and mortgage, with a list of the bonds and mortgages not previously reported, payments on bonds and mortgages previously reported, particulars with respect to stock investments, amount loaned on pledge of securities with particulars, real estate investments, cash on hand and on deposit with names of depositaries and amount on deposit in each, liabilities of the corporation, amount due depositors, and any other information required by the treasurer. The treasurer may require additional reports. He summarizes the condition of each trust company which reports or is examined, in a report made to the legislature at each regular session (Public General Laws, Art. XXIII, secs. 94 and 103). Reports for purposes of assessment for taxation are made in accordance with Public General Laws, Article LXXXI, section 165.

EXAMINATIONS.

The treasurer, either personally or by an appointee, examines each trust company annually, to determine the condition and resources of the corporation, the conduct of

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its affairs, the prudence of its management, its investments, the security afforded its obligees, and its compliance with its charter and the law (Public General Laws, Art. XXIII, secs. 95 and 96).

LOANS, DEPOSITS, AND INVESTMENTS.

The money held on deposit, or in trust, or the amount loaned, must never exceed ten times paid-up capital and surplus, nor may the outstanding loans ever exceed that amount; this does not apply to court deposits (Public General Laws, Art. XXIII, sec. 100). Among the items required to be reported are: Loans on bonds and mortgages, stock investments, loans "upon the pledge of securities of whatsoever kind," and real estate investments (Public General Laws, Art. XXIII, sec. 94).

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MASSACHUSETTS.

The Massachusetts Revised Laws of 1902 contain three chapters on the topics with which the digest is concerned: 113, Of savings banks and institutions for savings; 115, Of banks and banking (a chapter of which much relates to circulation, and much, with reference to supervision especially, seems superseded by chapter 590 of 1908, which, though a savings-bank statute, contains sections, 2–15, of broad enough application to include banks); and 116, Of trust companies; besides chapters dealing with cooperative banks, etc. The material from chapter 115 (that is to say, practically the whole digest under "Banks") is characterized by the local banking officials, in a letter from Mr. Charles L. Burrill, secretary, office of the bank commissioner, as "absolutely obsolete and of no use;" but it is inserted in the digest because it has never been repealed. Since the date of Mr. Burrill's letter a statute of 1909 has in effect forbidden banking by state banks and even more positively reduced chapter 115 to the condition of a dead letter, still, however, without actually repealing it; this new statute amends a section of chapter 590 of 1908 by adding a provision that no person, firm, or corporation, except savings banks, trust companies, and cooperative banks incorporated under Massachusetts law, and foreign banking corporations

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which were doing business and subject to the commissioner's supervision on June 1, 1906, may "hereafter transact business under any name or title which contains the word 'bank' or 'banking,' as descriptive of said business" (1909, chap. 491, 4, amending 1908, chap. 590, 16). Under this statute, even though it does not completely repeal the legislation on state banks, the interest in the material in the digest under "Banks" (except such of it as applies to other institutions—see III, IX, etc.—provisions, chiefly, of chapter 590 of 1908) becomes academic.

A supplement to the Revised Laws carries amendments and additions through the session of 1906, and the later legislation is in the acts of 1907, 1908, and 1909. Chapter 590 of 1908 repeals chapter 113 of the Revised Laws, amendments to it, and certain other acts, and provides a complete new savings bank chapter. The references to the Revised Laws consist of the letters, R. L., then the chapter, then the section or sections in the chapter which are cited for the statement just made; the references to the supplement and the 1907, 1908, and 1909 laws are by year, chapter, and section.

BANKS.

I.—Terms of Incorporation.

The business contemplated for banks under chapter 115 is that of receiving deposits, loaning, and discounting "on banking principles," and issuing circulating notes (R. L., chap. 115, 30).

The capital stock of every bank must be not less than $100,000 nor more than $1,000,000, paid in in gold or

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silver money, one-half before the bank goes into operation, the remainder within the ensuing year (R. L., chap. 115, 2). No bank may begin business until the half of its capital which is paid in has been examined and found complete by three commissioners appointed by the governor (R. L., chap. 115, 3). No stock of a bank may be transferred until the whole capital is paid in (R. L., chap. 115, 5). No person may hold more than one-half the capital of a bank exclusive of stock he holds as collateral (R. L., chap. 115, 6). In addition to the capital to which a bank is entitled, the State may subscribe an amount equal to 50 per cent of the capital authorized, in which case the State takes its dividends (R. L., chap. 115, 7). Stockholders are entitled to one vote for one share, and for every two additional shares one vote more, but no stockholder may have more than ten votes (R. L., chap. 115, 10).

Dividends may be declared out of net profits every six months (R. L., chap. 115, 30).

II.—Liabilities and Duties of Stockholders and Directors.

Apart from provision for unlimited liability on circulating notes (R. L., chap. 115, 80), the only special provision for bank stockholders' liability seems to be that if the capital stock is depleted by the directors' mismanagement those who are stockholders at the time are personally liable, except that no stockholder is liable to pay a sum exceeding the amount of stock actually held by him at the time (R. L., chap. 115, 85). Corporations may, it seems, be stockholders, for these liabilities are, in terms, put on corporate shareholders (R. L., chap. 115, 84 and 87).

There must be from seven to twelve directors, and for a bank with a capital of $500,000 or more there must be at least nine (R. L., chap. 115, 17). Each director

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must hold at least five shares of stock and be a citizen of Massachusetts; no one may be director in two banks at the same time. A majority of directors must reside or have their place of business in the county where the bank is established, or within 10 miles of the bank (R. L., chap. 115, 18). The legislature may appoint extra directors in proportion to capital which the State subscribes (R. L., chap. 115, 20). The cashier of a bank may not be a director (R. L., chap. 115, 29). The directors are required to keep a book for record of discounts and proceedings at meetings (R. L., chap. 115, 23). In case a bank becomes indebted beyond twice the amount of its paid-in capital, exclusive of sums due on account of deposits not bearing interest, debts between banks, etc., the directors under whose administration the bank becomes thus illegally indebted are personally liable for the excess to creditors of the bank (R. L., chap. 115, 35).

III.—Supervision.

The recent savings bank act (1908, chap. 590) provides for officers to supervise all sorts of banking institutions. There is a bank commissioner appointed for a three-year term, who must not be interested in a bank, corporation, or business that requires his supervision. He may engage in no other occupation. His salary is $5,000 a year (1908, chap. 590, 2). Information obtained by the commissioner and his subordinates from examinations and reports may be divulged only to officers whose duties so require (1908, chap. 590, 5). The commissioner, the treasurer and receiver general, and the commissioner of corporations constitute a board of bank incorporation (1908, chap. 590, 4). Among their duties they exercise supervision over a recently authorized form of cooperative corporation, called a "credit union" (1909, chap. 419). The commissioner may prescribe the manner in

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which the books and accounts of any bank are kept and the extent to which they must be audited (1908, chap. 590, 12).

If, in the opinion of the commissioner, a savings bank, trust company, or other person, partnership, or corporation doing a banking business, or the officers or trustees of such institution, have violated any law, he reports to the attorney-general, who institutes a prosecution for the violation. If, in the opinion of the commissioner, such a bank is conducting its business unsafely, he directs the practices to be discontinued; and if the bank fails to comply or if, in the opinion of the commissioner, a trustee or officer of the bank has abused his trust, the commissioner must, after giving a hearing to the directors of the institution, either report to the shareholders or, with the consent of certain officials, publish whatever facts public interest seems to him to require (1908, chap. 590, 8). If, upon examination, the bank seems insolvent or in such condition as to render its continuance in business hazardous, the commissioner applies to court to restrain the bank from doing business. If the bank seems to have exceeded its powers or failed to comply with law, he may apply for such an injunction. As soon as he has applied to the court the commissioner takes possession of the affairs of the bank, pending action by the court. The court may appoint receivers (1908, chap. 590, 9). During a receivership, if the commissioner thinks a receiver has violated his duty he presents the facts to the court (1908, chap. 590, 11).

Any committee appointed by the legislature may examine the affairs of any bank. If, upon examination, it is determined by the legislature that the bank has exceeded its powers or failed to comply with law, its franchises may be declared forfeited (R. L., chap. 115, 108). One-eighth of the stockholders in number or interest in a bank may choose a committee to investigate the bank's affairs. If,

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upon examination, this committee considers the bank insolvent or in a condition to render further business hazardous, or thinks that the bank has exceeded its powers or failed to comply with law, the committee reports to a court, which may enjoin further business by the bank and appoint receivers (R. L., chap. 115, 110). If the court is satisfied from certificate of the auditor that a bank is insolvent or in a hazardous condition, or has exceeded its powers, it may proceed as just explained (R. L., chap. 115, 111). If the commissioner thinks a bank or its directors or cashier has violated the law, he reports to the secretary of Massachusetts, who notifies the attorney-general to institute a prosecution (R. L., chap. 115, 114; and 1908, chap. 590, 5, amd. by 1909, chap. 491, 3). The provisions of this paragraph are those for supervision contained in the Revised Laws; they have not been expressly repealed, though the provisions (given in the preceding paragraph) contained in the act of 1908 seem designed to supersede them.

For supervision of ticket-selling offices that accept deposits, see 1908, chapter 493; 1907, chapter 377; 1906, chapter 408; and 1905, chapter 428.

REPORTS.

Banks are within the provision of the statute of 1908 that, "in addition to the reports required by law to be made," they must make such other statements to the commissioner as he may require (1908, chap. 590, 1 and 13). The provisions in the Revised Laws with regard to reports by banks are the following: Banks doing business in certain districts of Boston must transmit every Monday morning to the secretary of the Commonwealth a statement of amount of capital stock; average amounts due to and from other banks; deposits; loans; discounts; specie and lawful money of the United States deposited in

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the bank of deposit of the Boston clearing house; this statement to be based on the condition of the bank on each day of the preceding week (R. L., chap. 115, 99). Banks in other less central districts of Boston, and banks outside of Boston, must, on the first Monday of each month, transmit to the secretary statements generally similar. This class of banks base their reports on their condition on each Saturday of the preceding month (R. L., chap. 115, 100). An abstract of weekly and monthly reports must be published in Boston papers by the secretary (R. L., chap. 115, 102). The secretary must furnish blank forms for these reports (R. L., chap. 115, 103). The cashier of every bank must annually make a return of the condition of the bank on the afternoon of any Saturday named by the governor. The report must be sent to the secretary of the Commonwealth within fifteen days. The items are given in the statute (R. L., chap. 115, 104). The secretary after receiving the annual returns must cause an abstract to be printed, sending a copy to each bank and one to the legislature (R. L., chap. 115, 107). Receivers must make annual report to the legislature showing their progress (R. L., chap. 115, 118).

The statute of 1908 provides that the commissioner must annually make a statement to the legislature of the condition of all incorporated banks, including those in the hands of receivers, from which he has received a report during the preceding year, together with such other information of the affairs of the banks as public interest may require, with suggestions relative to the general conduct and condition of the banks (1908, chap. 590, 15).

EXAMINATIONS.

The commissioner or a subordinate, at least once a year and whenever he considers it expedient, visits every bank in order to ascertain its condition, its ability to fulfill its

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obligations, and its compliance with law. The information obtained by the commissioner is open only to the inspection of officials in the course of their duty (1908, chap. 590, 5). Upon application by five or more officers, trustees, creditors, or depositors the commissioner must examine any bank (1908, chap. 590, 7). In case banks are in the hands of receivers, the commissioner or a subordinate examines them at least once a year, and oftener if he considers it expedient. He examines the reports made by receivers to the appointing court, and presents to the court any violation of duty by a receiver which he discovers (1908, chap. 590, 11).

In the sections of the Revised Laws given above before Reports, are provisions for various examinations: A committee of the legislature may examine (R. L., chap. 115, 108). A committee chosen by one-eighth of the stockholders in number or interest in a bank may examine (R. L., chap. 115, 110). The commissioner must visit banks; he, as successor to the board of commissioners of savings banks, is given such powers over banks as certain repealed savings banks statutes gave that board over savings banks, and must report to the secretary of Massachusetts violations of law by a bank or its directors or cashier (R. L., chap. 115, 112, 113, and 115; also 1908, chap. 590, 5, amd. by 1909, chap. 491, 3). Three commissioners appointed by the governor examine as a preliminary, to make sure the capital is paid in in coin, etc. (R. L., chap. 115, 3).

IV.—Reserve Requirements.

Every bank must keep an amount of specie or lawful money of the United States equal to 15 per cent of its liabilities "for circulation and deposits." When from weekly or monthly reports it appears that its average reserve is less than that amount, no new loans may be made.

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Lawful money of the United States or specie specially deposited by a bank in Boston in the bank of deposit of the Boston clearing house, and balances payable on demand from certain other banks, are a part of reserve (R. L., chap. 115, 50).

V.—Discount and Loan Restrictions.

No loan may be made to a stockholder until the full amount of his shares is paid in (R. L., chap. 115, 5). No bank may have owing to it on loans made on pledge of its own stock more than one-half its paid in capital (R. L., chap. 115, 31); stock taken as security must be sold within six months after it becomes the bank's property (R. L., chap. 115, 32). The debts of a bank must not exceed twice its paid in capital exclusive of sums due on account of deposits not bearing interest; there must never be due to a bank more than double its paid in capital (R. L., chap. 115, 33). Debts due from one bank to another, however, and loans directly made by a bank to Massachusetts or the United States, etc., are for this purpose not debts due (R. L., chap. 115, 34). No bank may make a loan or discount unless it is payable by the bank on demand in specie or in bills which the bank is authorized to pay out (R. L., chap. 115, 51). Without a special vote of stockholders, no officer of a bank may be liable to it to an amount greater than 8 per cent of its paid in capital, or greater than $40,000. The whole board of directors must not be liable to an amount exceeding 30 per cent of the capital (R. L., chap. 115, 53). No bank may loan or discount to a manufacturing corporation any financial officer of which is also cashier of the bank (R. L., chap. 115, 54). Upon requisition of the legislature any bank must loan to the State an amount not more than 5 per cent of its capital, to be repaid in five annual installments or in a shorter period. The total of

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such loans demanded by the State must not at any one time exceed one-tenth of the capital of the bank (R. L., chap. 115, 55). Neither the cashier nor any officer under him may borrow of the bank (R. L., chap. 115, 29).

No bank may issue notes, etc., payable "at a future day certain or with interest," except for money borrowed of the State, or from a domestic savings bank, etc.; banks may pay interest on debts due other banks and due municipalities, however (R. L., chap. 115, 40).

VI.—Investments.

A bank may hold real estate requisite for the convenient transaction of its business, not exceeding, however, 12 per cent of the amount of its capital, exclusive of real estate held on mortgage, received on execution, or taken to secure or satisfy debts (R. L., chap. 115, 39). Any bank is subject to a penalty if it holds its own stock, except as security for debts, or neglects to sell stock received as security within six months after it has become the property of the bank (R. L., chap. 115, 32). No bank may engage in trade or commerce, but it may sell property it holds in pledge (R. L., chap. 115, 38).

VIII.—Branches.

These are forbidden (R. L., chap. 115, 30).

IX.—Occupation of the Same Building.

No savings bank may occupy the same office or suite of offices with a national bank, trust company, or other bank of discount, nor occupy any office directly connected by means of doors, etc., with the office of a national bank, trust company, or other bank of discount (1908, chap. 590, 19).

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X.—Unauthorized Banking.

See introductory paragraph. Late legislation makes banking by state banks practically an impossibility. No person, firm, or corporation, except savings banks, trust companies, cooperative banks, and certain foreign banks that were doing business in the State in 1906, may do business under a name which contains "bank" or "banking" (1908, chap. 590, 16, amd. by 1909, chap. 491, 4).

XI.—Penalties.

Whoever obstructs an examiner in the course of his duty is punished by a fine of not more than $1,000, or imprisonment for not more than one year (1908, chap. 590, 6). An officer or employee of a bank who fails, when required by the commissioner, to report, or, when so required, reports falsely, is punished by fine of not more than $1,000, by imprisonment for not more than three years, or by both (1908, chap. 590, 14). Occupation by a savings bank of offices with another bank is forbidden; "any such corporation" violating that provision is punished by a fine of not more than $500—this penalty, though probably only for the savings bank, may include the other bank whose office is shared (1908, chap. 590, 1 and 19). The president, vice-president, or treasurer of a savings bank who holds the same offices or that of cashier, in a national bank or trust company or any other bank of discount, suffers a fine of not more than $500 (1908, chap. 590, 20).

If the cashier is director of a bank, or if he or an officer under him borrow of the bank, the bank forfeits $500 for each offense (R. L., chap. 195, 29). A bank which holds its own stock, except as security for debts, or neglects to sell stock received as security within six months after it has become the bank's own property, forfeits $500 for

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each offense (R. L., chap. 115, 32). If a bank makes a loan or discount of which the amount is not payable by the bank on demand in currency, it forfeits $500 for each offense (R. L., chap. 115, 51). Exceeding the legal amount of loans to officers is punishable by a $500 fine (R. L., chap. 115, 53). Failure of a Boston bank to furnish the weekly report required by the Revised Laws entails a penalty of $500; failure by a suburban bank, or one outside Boston altogether, to furnish the monthly report, $25; if the neglect continues ten days from the first Monday of any month, there is a forfeit of $500 (R. L., chap. 115, 101). Failure to report to the secretary of Massachusetts with respect to the Saturday designated by the governor entails a forfeiture of $100 for each day's neglect (R. L., chap. 115, 105). Obstructing an examination by a committee of the legislature is punishable by fine of not more than $10,000 or imprisonment for not more than three years (R. L., chap. 115, 109). Receivers who fail to report annually to the legislature forfeit $20 for each day's neglect (R. L., chap. 115, 118). A bank whose directors fail to keep a record of discounts and of proceedings at meetings forfeits $500 for each neglect (R. L., chap. 115, 23). Failure to furnish a loan demanded by the State entails a penalty of 2 per cent of the amount per month (R. L., chap. 115, 58).

SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks are evidently institutions without capital stock. Members of savings banks must be citizens of Massachusetts; failure to attend two consecutive annual meetings is ground for forfeiture of membership (1908, chap. 590, 27). Before the board of bank incorporation authorizes the organization of any savings bank they

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must assure themselves that public convenience will be promoted by the establishment of the savings bank (1908, chap. 590, 23).

Before making a semiannual dividend savings banks set apart from net profits as a guaranty fund not less than one-eighth nor more than one-fourth of 1 per cent of total deposits until the fund amounts to 5 per cent of deposits, beyond which point it must not be increased (1908, chap. 590, 59). The income of the savings bank, after expenses and contributions to guaranty fund have been deducted, is divided among depositors in the following manner: An ordinary dividend is declared every six months out of earnings for that period. There may be appropriated, from earnings left undivided after the declaration of a dividend, an amount sufficient to declare an ordinary dividend; but the total dividends declared during any twelve months must not exceed the income during the period without written approval of the commissioner. Ordinary dividends must not exceed 2½ per cent on amounts which have been on deposit for six months, or 1¼ per cent on amounts which have been on deposit for three months. Savings banks need not pay a dividend on less than $3 or on fractional parts of a dollar (1908, chap. 590, 60). Before the meeting called to declare a dividend the auditing committee must examine the affairs of the savings bank for the last six months to determine net earnings (1908, chap. 590, 61). If the net income for the preceding six months, above the amount set apart for guaranty fund, does not amount to 1½ per cent of deposits, no dividend is declared except such as the commissioner approves (1908, chap. 590, 62). Whenever the guaranty fund and undivided net profits together amount to 10¼ per cent of the deposits at the end of a dividend period, an extra dividend of not less than one-fourth of 1 per cent may be declared on all amounts which have

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been on deposit for six months, or not less than one-eighth of 1 per cent on all amounts that have been on deposit for three months; in no case may an extra dividend be paid which reduces the guaranty fund and undivided profits together to less than 10 per cent of deposits (1908, chap. 590, 63).

If necessary to pay depositors, a savings bank, by vote of its board of investment, may borrow money, pledging any of its securities (1908, chap. 590, 67).

Chapter 561 of 1907 provides elaborately for the institution of insurance departments in savings banks.

II.—Liabilities and Duties of Trustees.

There must be a board of investment of not less than three, and a board of not less than eleven trustees. No person may hold office in two savings banks at the same time. Only one of the persons occupying the office of president, treasurer, or clerk may be at the same time a member of the board of investment (1908, chap. 590, 28). Trustees must meet regularly at least once in three months to receive the report of the treasurer, etc. A statement, in the form of a trial balance, is prepared at each regular meeting showing the condition of the corporation (1908, chap. 590, 30). The trustees appoint an auditing committee of not less than two of their number, who cause a thorough audit of the books, securities, and cash of the savings bank to be made every twelve months (1908, chap. 590, 32). Failure of a trustee to attend regular meetings and perform the duties of trustee for six consecutive months, and bankruptcy, etc., are ground for forfeiture of office (1908, chap. 590, 34). At least once in each fiscal year an accurate trial balance must be made of the depositors' ledger (1908, chap. 590, 42). Any member of the board of investment or officer charged with the duty of investing the savings bank's funds who becomes indebted

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to the savings bank or becomes the owner of real estate on which the savings bank holds a mortgage vacates his office (1908, chap. 590, 44). Immediately before meetings called to declare dividends, the auditing committee must examine the affairs for the preceding six months and report to the trustees the estimated net earnings (1908, chap. 590, 61).

III.—Supervision.

The bank commissioner and the board of bank incorporation, whose appointment is discussed under III, in Banks, exert their powers under the savings-bank act, although their authority extends over all banking institutions. If, in the opinion of the commissioner, a savings bank has violated the law, he reports the fact to the attorney-general, who prosecutes. If, in the opinion of the commissioner, a savings bank is conducting its business in an unsafe or unauthorized manner, and if it fails to comply with his order to discontinue the practices, or if a trustee or officer has abused his trust, the commissioner, in the case of a savings bank, must report the facts to the attorney-general, who may after a hearing institute proceedings for removal of trustees or officers, or such other proceedings as the case may require (1908, chap. 590, 8). See Banks, III, for the general provisions requiring the commissioner to institute proceedings against insolvent banks, to take possession of those banks, and to sue for a receiver (1908, chap. 590, 9). He may prescribe rules for bookkeeping, audits, etc. (1908, chap. 590, 12).

The board of bank incorporation has authority to grant or withhold the certificate that public convenience will be promoted by the establishment of a proposed savings bank; this certificate is a prerequisite to incorporation (1908, chap. 590, 23). Every three years deposit books

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are called in for verification under rules approved by the commissioner (1908, chap. 590, 43). The commissioner authorizes a declaration of dividends under certain extraordinary circumstances (1908, chap. 590, 62); must be notified when a savings bank borrows, pledging securities (1908, chap. 590, 67); and performs certain duties with respect to investments, including the approval of investment in bank building. See VI, *infra* (1908, chap. 590, 68).

Provision is made in the statutes for the disposal of unclaimed deposits (1908, chap. 590, 55 *et seq.*).

REPORTS.

The clerk of every savings bank publishes in a local newspaper a list of the members and the new officers, after every election. This list is included in the annual report of savings banks to the commissioner (1908, chap. 590, 29). The trustees publish semiannually in a local newspaper the names of the officers of the corporation charged with the investing of its funds (1908, chap. 590, 30). The regular reports are annual. Within twenty days after the last business day of October the treasurer reports to the commissioner in a form prescribed by the commissioner showing the condition of the savings bank at the close of business on that day. The following items must be included: Name of corporation and names of corporators and officers; place where located; amount of deposits; amount of each item of other liabilities; public funds, including all United States, state, and municipal bonds; railroad bonds, street-railway bonds, telephone bonds, and stock in banks and trust companies, stating each particular kind, values, and amount invested in each; loans to municipalities; loans on mortgage of real estate; loans on personal security; estimated value of real estate, and amount so invested; cash on deposit in banks and trust companies, with the

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names of depositaries and amount deposited in each; cash on hand; the whole amount of interest or profits received, and the rate and amount of dividends for the previous year; the times for the dividends; the rates of interest received on loans; the total amount of loans bearing each specified rate of interest; the number and total amount of loans which do not exceed $3,000 each; the number of open accounts; the number and amount of deposits; the number and amount of withdrawals; the number of accounts opened and the number closed during the previous year; annual expenses of the corporation; and such other information as the commissioner may require (1908, chap. 590, 37). Every fifth year the report gives other statistics, including figures showing the amount of deposits of various sizes; the amount credited to women, to guardians, etc., received during the preceding twelve months (1908, chap. 590, 38). In addition to the reports required by law, savings banks must make whatever other reports the commissioner requires (1908, chap. 590, 13).

The treasurer of every savings bank every five years returns to the commissioner and publishes a statement of the name, the amount standing to the credit, the last known address, and the fact of death, if known, of each depositor who has not deposited or withdrawn for twenty years. He need not report if the depositor in question is known to an officer of the bank to be living, nor need he report deposits for which the book has not been brought in within twenty years to have interest added or to be verified, nor need he report deposits which with accumulations are less than $25 (1908, chap. 590, 39).

Each year the commissioner reports to the legislature, as stated under Banks (1908, chap. 590, 15); the report of unclaimed deposits must be included in this report (1908, chap. 590, 39).

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EXAMINATIONS.

The commissioner or a subordinate at least every year, and oftener if he thinks it necessary, examines every savings bank to ascertain its condition, its ability to fulfill its obligations, and its compliance with law (1908, chap. 590, 5). On application of five or more officers, trustees, creditors, or depositors, the commissioner makes a special examination (1908, chap. 590, 7). Once a year, and oftener if he thinks it necessary, the commissioner or a subordinate examines banks in the hands of receivers, reporting the result of his examinations to the appointing court (1908, chap. 590, 11). Savings banks and their officers are subject to examination by committees of the legislature (1908, chap. 590, 21). The auditing committee of not less than two trustees make a thorough audit of the books, securities, and cash of their savings bank at least once a year (1908, chap. 590, 32). The auditing committee examine the income, profits, and expenses for the preceding six months before a dividend is declared (1908, chap. 590, 61).

V.—Discount, Loan, and Deposit Restrictions.

There is a board of investment which has charge of loans and investments; it meets at least monthly (1908, chap. 590, 31).

No president, treasurer, member of a board of investment, or officer charged with the duty of investing a savings bank's funds may borrow from the savings bank or be surety for loans by it, etc. (1908, chap. 590, 44). Neither a savings bank nor anyone acting for it may take a fee, commission, etc., on account of a loan made by the bank, other than that which appears on the face of the contract of loan (1908, chap. 590, 45).

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A savings bank may receive on deposit from any person not more than $1,000, and may allow interest on principal and accumulated interest until the whole amounts to $2,000; thereafter interest will be allowed only upon $2,000. This does not apply to deposits by religious or charitable corporations labor unions, deposits under order of court, or for the sinking fund of a municipality (1908, chap. 590, 46, amd. by 1909, chap. 491, 7).

For certain other loan provisions, see VI, below.

If necessary to pay depositors, a savings bank may borrow money, pledging securities for the loan (1908, chap. 590, 67). See VI, below, for certain restrictions on loans given under investments because so classified in the statutes.

VI.—Investments.

There is a board of investment of not less than three, who are in charge of investments (1908, chap. 590, 28). They meet at least once a month to approve loans, purchases or sales of bonds, stocks, etc. (1908, chap. 590, 31).

The provisions for savings-bank investments are so extremely long and complicated that the finer distinctions and provisos have had to be ignored here. Stated in as condensed a form as possible, investments may be:

First.—In first mortgages of real estate in Massachusetts. Not exceeding 60 per cent of the value of the real estate nor more than 70 per cent of the whole amount of deposits may be thus invested. If the loan is on unimproved and unproductive real estate, the amount loaned must not exceed 40 per cent of the value of the real estate. The board of investment, or two of them, value the mortgaged premises at least once every five years.

Second.—(*a*) In the public funds of the United States or of any of the New England States. (*b*) In bonds or

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notes of a Massachusetts county, city, or town. (*c*) In bonds or notes of an incorporated district in Massachusetts whose debt does not exceed 5 per cent of its property's valuation for taxes. (*d*) In the bonds or notes of municipalities of the other New England States whose debt does not exceed, for certain classes, 5 per cent, and for others 3 per cent, of the valuation of the property of the municipality for taxes. (*e*) In bonds of certain named States, and the bonds of municipalities of those States which have 30,000 inhabitants and a debt not exceeding 5 per cent of the valuation of property for taxes; bonds of municipalities in other named States having more than 200,000 inhabitants and a debt not exceeding 7 per cent of the valuation of the property.

Third.—(*a*) In bonds or notes of a railroad incorporated in Massachusetts and located wholly or in part there, which has paid 4 per cent dividends on all its stock for five years; or in first-mortgage bonds of a terminal company incorporated in Massachusetts and located there, if it is owned or operated, or its bonds are guaranteed, by such a railroad. (*b*) In bonds or assumed bonds of a railroad corporation incorporated in any of the New England States, if at least one-half its road is located in those States, whether the road is in possession of the company or leased to another, provided that the bonds are either secured by a first mortgage of the railroad's property, or by a refunding mortgage as described in (3) or (4) of (*g*), or, if the railroad of the corporation is unencumbered by mortgage, then the bonds are issued under a statute providing that after an issue of bonds the railroad may not execute a mortgage without securing by it previous liabilities, and provided that this railroad has paid 4 per cent dividends on all its capital stock for five years. (*c*) In first-mortgage bonds or assumed first-mortgage

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bonds, or bonds secured by a refunding mortgage as described in (3) or (4) of (*g*), of a railroad incorporated in any New England State whose road is located wholly or in part there which have been guaranteed by a railroad described in (*a*) or (*b*) which is operating its own road. (*d*) No bond is made a legal investment by (*b*) unless the corporation issuing or assuming the bond has during the preceding year paid in dividends an amount equal to one-third the interest paid on its funded debt direct or assumed. No bond is made a legal investment by (*c*) unless the guaranteeing corporation has during the preceding year paid in dividends an amount equal to one-third the interest paid on its funded debt, direct, assumed, and guaranteed. (*e*) In mortgage bonds, as described below under this clause, of any railroad incorporated under the laws of any of the United States; provided (1) that during each of the last ten years the railroad owned 500 miles of line within the United States, or if owning less, then the gross earnings of the railroad were $15,000,000; (2) the railroad has paid matured principal and interest of mortgage debt; (3) the railroad has paid 4 per cent dividends on all its stock; (4) the gross earnings, including those of controlled roads and those of controlled mines, have not amounted to less than five times the amount necessary to pay interest on entire debt, rentals, and interest on debts of controlled lines; but (5) no bonds are made a legal investment by (*g*) if the mortgage authorizes a total issue of bonds which make the whole authorized debt of the company exceed three times its stock; (6) no bonds may be made a legal investment by (*i*) or (*j*), if the mortgage securing them authorizes an issue of bonds which, added to the total debt of the guaranteeing corporation, exceeds three times the capital of the guaranteeing corporation, nor in case the total debt of the issuing corporation exceeds three times

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its capital. (*f*) A "first mortgage" must be on not less than 75 per cent of the railroad owned by the company in question, and in no case less than 100 continuous miles of road: provided that 75 per cent of the road is connected; that for five years all the road subject to the mortgage has been operated by the road which issues, assumes, or guarantees the bonds; and that the date of the mortgage is at least five years prior to the investment. (*g*) Bonds issued or assumed by a railroad described in (*e*) which are secured by a mortgage which was, at its date or at the date of the investment, (1) a first mortgage on railroad owned by the issuing or assuming corporation, except that if not a first mortgage on 75 per cent of the railroad owned by the corporation, it must be a first mortgage on 75 per cent of the road subject to the lien of the mortgage at its date; but if any stocks or bonds are deposited with the trustee of the mortgage as part of its security, the bonds secured by the mortgage are not legal investments unless the corporation owns at least 75 per cent of the total mileage which is subject to the lien of the mortgage and is represented by the stocks or bonds; (2) a first mortgage, which is in effect a first mortgage on all railroad subject to its lien, by virtue of the irrevocable pledge with a trustee of an entire issue of bonds that are a first lien on the road of a company which is operated by the corporation issuing or assuming the bonds; (3) a refunding mortgage covering at least 75 per cent of the road owned by the corporation at the date of the mortgage and providing for the retirement of mortgages which are prior liens, with certain requirements, particularly where the mortgaged property is not owned in fee by the corporation executing the refunding mortgage; (4) a mortgage on not less than 10 per cent of a road owned by the corporation issuing or assuming the bonds, but not less than 500 miles of line. provided that the mortgage is a first or second lien on not less than

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75 per cent of the total road covered by the mortgage at its date and provides for the retirement of all mortgage debts which are a prior lien; that the bonds secured by the mortgage mature at a later date and cover 25 per cent more property than any of the bonds secured by prior lien; and that the date of the mortgage is five years prior to that of the investment. (*h*) Mortgage bonds, or bonds secured by mortgage bonds, which are an obligation of a railroad whose refunding bonds are a legal investment under (3) or (4) of (*g*): provided that the bonds are to be refunded by the refunding mortgage; that the refunding mortgage covers all the real property on which the mortgage securing the underlying bonds is a lien; and that, in case of bonds guaranteed or assumed, the corporation issuing them is operated by the railroad corporation. (*i*) Bonds which have been guaranteed by indorsement by a railroad which has complied with all the provisions of (*e*), provided that the bonds are secured by a first mortgage on the railroad of a corporation operated by the guaranteeing corporation, and that, in the case of a leased road the entire capital of which is not owned by the lessee, the rental includes an amount to be paid the stockholders of the leased road equal to at least 4 per cent on that portion of the capital not owned by the lessee. (*j*) First-mortgage bonds of a railroad corporation which has for ten years complied with (2), (3), and (4) of (*e*), provided the bonds are guaranteed by a railroad company which has complied with all the requirements of (1), (2), (3), and (4) of (*e*), notwithstanding that the railroad of the issuing corporation is not operated by the guaranteeing corporation. (*k*) Bonds which are a legal investment are not rendered illegal even though the corporation issuing, assuming, or guaranteeing them fail not longer than two years to comply with the requirements of (4) of (*e*). No further investment is made during that period in the bonds of the corporation in question, but if,

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during the year following its two years' unsatisfactory condition, it complies with all the requirements of (*e*), it is then regarded as having complied with them throughout. (*l*) Bonds which are a legal investment are not rendered illegal by the fact that the property upon which they are secured is acquired by another railroad; and although the issuing or assuming corporation is consolidated with another, if the consolidated or purchasing corporation assumes the payment of the bonds, and so long as it pays interest or dividends on the securities issued to effect the consolidation to an amount equal to 4 per cent at least on the capital of the issuing or assuming corporation, the bonds remain a legal investment. (*m*) If a railroad which has complied with all the requirements of (1), (2), (3), and (4) of (*e*) for more than five, but less than ten years, is merged with another railroad, the succeeding corporation is considered as having complied with the first four provisions of (*e*) during those years preceding the date of merger during which all the merged corporations, if considered as one corporation, would have so complied; provided the succeeding corporation continues to comply for a period making the total ten years, of which total not less than two years are under the consolidation. (*n*) Railroad does not include street railway. The commissioner prepares annually a list of authorized investments under *Third*.

Fourth.—Certain investments made prior to the act of 1908 may continue to be held.

Fifth.—In the bonds of any street railway company incorporated in Massachusetts and located wholly or in part there, which has paid dividends of 5 per cent on all its stock for five years. The commissioner's annual list includes those bonds and notes which are authorized under *Fifth*.

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Sixth.—In the bonds of any telephone company a majority of whose directors are residents of Massachusetts, provided that for five years the company has satisfied these requirements: (1) Its gross annual income has been at least $10,000,000; (2) it has paid principal and interest of all its debts; (3) it has paid 6 per cent dividends; (4) the dividends have not been less than the total amount necessary to pay all interest; these bonds, moreover, must be secured either by a first mortgage of 75 per cent of the property of the company, or by the deposit of bonds and shares of other telephone companies, under a trust agreement limiting the amount of bonds to 75 per cent of the value of the securities deposited; for five years, interest and dividends paid on the deposited securities must have amounted to not less than 50 per cent in excess of the annual interest on the bonds secured. Not more than 2 per cent of the deposits of a savings bank may be invested in bonds of telephone companies. The commissioner's annual list of securities that are a legal investment must show those authorized under *Sixth.*

Seventh.—In the stock of New England national banks, or of Massachusetts trust companies, but the corporation must not hold, both as an investment and as security, more than 20 per cent of its deposits in this sort of stock; nor in the stock of any one national bank or trust company more than 3 per cent of its deposits, nor more than $100,000, nor more than one-quarter of the capital stock of the bank or trust company. A savings bank may deposit not more than 2½ per cent of its deposits in any Massachusetts national bank and in any Massachusetts trust company, but the deposit must not exceed $500,000, nor 25 per cent of the capital and surplus of the depositary.

Eighth.—In loans not for a longer period than one year, subject to the requirements given below. Not more than one-third of deposits and income may be thus invested,

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nor may the total liabilities to a savings bank of a person, firm, or corporation for money borrowed on personal security, including in firm liabilities those of the members, exceed 5 per cent of deposits and income; these limitations, except the one-year limitation, not to apply to loans made under (2) of (*e*). These loans may be of the following sorts: (*a*) Notes of three or more responsible Massachusetts citizens; provided that the total liabilities to any savings bank of a person or firm for money borrowed under this subdivision, including in firm liabilities those of the members, must not exceed 1 per cent of the deposits. (*b*) Notes, with one or more substantial sureties or indorsers, of a Massachusetts corporation, or of a manufacturing corporation with a Massachusetts commission house as surety, or of an association or corporation at least half whose property is located in New England, with a surety who is a citizen or corporation of Massachusetts, but no loan of this sort may be made unless an examination of the borrowing corporation has been made by an accountant approved by the commissioner. (*c*) Notes or bonds of gas, electric light, telephone, or street railway corporations of Massachusetts that have had annual net earnings for three years equal to 4 per cent of their capital, and gross earnings for one year of $100,000. (*d*) Bonds or notes issued, assumed, or guaranteed by railroad corporations complying with the requirements of (*b*), or (1), (2), (3), and (4) of (*e*), of *Third*. The principal of the securities named in (*c*) and (*d*) must be payable in a time not longer than a year. (*e*) Notes of responsible borrowers with a pledge of various collateral, including (1) mortgages of Massachusetts real estate, if the note does not exceed 60 per cent of the value of the real estate, nor 40 per cent if it is unproductive; (2) securities which are legal investments under *Second*, *Third*, *Fourth*, or *Fifth*, at not more than 90 per cent of their market value; (3) deposit books of depositors, at not more than 90 per

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cent of the amount of deposits; (4) railroad stocks which are legal investments under (*a*), (*b*), or (*e*) of *Third*, at not more than 80 per cent of their market value; (5) other stocks and bonds at percentages settled by the board of investment, subject to the approval of the commissioner. (Changes of collateral under (*e*) must be approved by the board of investment—1908, chap. 590, 31.)

Ninth.—A sum not exceeding the guaranty fund and undivided earnings of the savings bank, nor in any case exceeding 5 per cent of its deposits, or $200,000, may, subject to the approval of the commissioner, be invested in suitable real estate for business purposes.

Tenth.—A savings bank may hold real estate acquired by foreclosure of mortgages owned by it, or by purchase at sales made under such mortgages, or upon judgments for debts due it, or settlements to secure such debts. This real estate must be sold within five years, and the bank may take a purchase money mortgage, notwithstanding the provisions of *First*.

Eleventh.—A savings bank may hold stocks, bonds, notes, or other securities acquired in settlements to secure debts, but these securities must be sold in five years (1908, chap. 590, 68, amd. by 1909, chap. 491, 8).

VIII.—Branches.

Savings banks may not do business at any place other than their own banking house, except that with the permission and under the regulation of the commissioner one or more branches for the receipt of deposits may be established in the city or town in which the banking house is located, or in towns not more than 15 miles distant in which there is no savings bank (1908, chap. 590, 36).

IX.—Occupation of the Same Building.

See Banks.

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X.—Unauthorized Banking.

No corporation, person, or firm, except savings banks and trust companies incorporated under Massachusetts law (except certain foreign corporations subject to supervision of the commissioner—1907, chap. 533), may use a sign having on it words indicating that the office is that of a savings bank, nor may such words be used on letter paper, etc. Business appearing to be that of a savings bank may not be transacted (1908, chap. 590, 16). The penalty for violation is $100 a day; the offender may be enjoined from doing business (1908, chap. 590, 17).

XI.—Penalties.

See Banks for penalties for obstructing examinations; failure to report or false report; occupation by a savings bank of offices with another bank; and the holding of office in a national bank or a trust company by a savings bank officer (1908, chap. 590, 6, 14, 19, and 20).

Any officer of a savings bank, or other person in charge of its property, who obstructs examination by a committee of the legislature is punished by a fine of not more than $10,000 or imprisonment for not more than three years (1908, chap. 590, 21). If the clerk of a savings bank neglects to notify newly elected officers or to publish the required list of them, or if he publishes a false list, he is liable to a penalty of $50 (1908, chap. 590, 29). The treasurer of a savings bank who fails to make a return of unclaimed deposits is punished by a fine of $100 (1908, chap. 590, 39). Whoever violates the provision forbidding the receipt by a savings bank of a fee for negotiating a loan from the savings bank, other than that which appears on the face of the contract of loan, suffers a fine of not more than $1,000, imprisonment for not more than one year, or both (1908, chap. 590, 45). Loss of office is the penalty

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for the president, treasurer, member of investment board, or officer charged with investing funds, who borrows from the savings bank or becomes owner of land mortgaged to it (1908, chap. 590, 44).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies are clearly given banking powers; they may "receive on deposit, storage, or otherwise money * * * and other property of any kind." Trust companies receiving such general deposits of money must not give the depositor security (R. L., chap. 116, 12). Property received in trust is kept separate from the general assets of the company; investments, loans, etc., are distinct and in a trust department (R. L., chap. 116, 24). The trust department may have a trust guaranty fund accumulated out of profits, invested only in legal trust fund investments (R. L., chap. 116, 25), and pledged for performance of fiduciary undertakings (R. L., chap. 116, 26). This trust guaranty fund must not be transferred to the general capital while trust obligations are owed; but its income may be added to the general income of the corporation when it is not needed to discharge fiduciary obligations (R. L., chap. 116, 27).

The capital of every trust company must be not less than $200,000 nor more than $1,000,000, except that in a city or town of not more than 100,000 the capital may be not less than $100,000, divided into shares of $100 par value. The whole capital must be actually paid in before business is begun, and no share may be issued till paid for in cash (R. L., chap. 116, 5, amd. by 1907, chap. 487). No shares may be issued till paid for at par in cash (1904, chap. 374, 6). A guaranty fund must be set aside each year of not less than 10 per cent of net earnings until this fund amounts to

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25 per cent of capital; the guaranty fund must be invested "in the same manner as deposits in savings banks may be invested" (R. L., chap. 116, 29).

Before they are allowed to begin business the incorporators of a trust company must obtain a certificate that public convenience and advantage will be promoted by the establishment of the company. If this is refused the application may not be renewed until a year later (1904, chap. 374, 3). Before beginning fiduciary business the trust company must receive authority (R. L., chap. 116, 20). The issuing of this authorization is at the discretion of the board of bank incorporation, who also make the preliminary examination to ascertain that the whole capital has been paid in in cash and that all requirements have been complied with, before issuing the certificate authorizing the trust company to begin business (1904, chap. 374, 6; and 1908, chap. 590, 4, amd. by 1909, chap. 491, 2).

A recent statute provides for the separation of savings deposit business in a department of its own. Every trust company "soliciting or receiving deposits (*a*) which may be withdrawn only on presentation of the pass book or other similar form of receipt which permits successive deposits or withdrawals to be entered thereon, or (*b*) which at the option of the trust company may be withdrawn only at the expiration of a stated period after notice of intention to withdraw has been given, or (*c*) in any other way which might lead the public to believe that such deposits are received or invested under the same conditions or in the same manner as deposits in savings banks," must have a separate savings department (1908, chap. 520, 1). The loans and investments of these deposits are governed by the savings-bank statute (1908, chap. 520, 2). These deposits and the investments or loans of them must not be mingled with the general property of the trust company

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or be liable for the general obligations of the company until deposits in the savings department have been paid in full (1908, chap. 520, 3). In addition to this security, savings depositors have an equal claim with other creditors upon the property of the trust company (1908, chap. 520, 4).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of every trust company are personally liable for the obligations of the corporation to the amount of their stock at par in addition to the amount invested in the shares (R. L., chap. 116, 30, amd. by 1905, chap. 228).

Each director of a trust company must own at least ten shares of its stock. A majority of them must be citizens of Massachusetts and there resident; not more than one-third of the directors of one trust company may be directors of another (R. L., chap. 116, 9).

III.—Supervision.

See Banks for the details of the make up of the board of bank incorporation, the qualifications of the bank commissioner, etc. The commissioner, if he thinks a trust company has violated the law, reports to the attorney-general, who prosecutes. The commissioner directs unsafe practices to be discontinued, and may, if the trust company fails to comply or if he thinks a trustee or officer of the trust company has abused his trust, etc., either report to the shareholders or, with the consent of the treasurer and receiver general, the attorney-general, and the commissioner of corporations, publish the facts as he thinks public interest requires (1908, chap. 590, 8). If a trust company on examination appears insolvent or in a hazardous condition, the commissioner must, or in cases of apparent violation of law

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or exceeding powers may, take possession and apply for a receiver (1908, chap. 590, 9). The commissioner examines the affairs of receivers and reports any violation of duty to the appointing court (1908, chap. 590, 11). The commissioner may prescribe the form of keeping books and accounts of trust companies and the extent to which they must be audited (1908, chap. 590, 12). The bank commissioner has authority to determine what trust companies in Boston may act as reserve agents for other trust companies; his consent is necessary to use a reserve agent as such (1908, chap. 520, 10). He notifies a trust company to make good its reserve when it falls below the required amount, and if the company fails for sixty days to do so he applies to a court for a receiver. If the reserve of a trust company which has been authorized to act as reserve agent is less than the required amount, the commissioner notifies the company to make the reserve good, and if it fails to do so for ten days he may revoke its authority to act as a reserve agent (1908, chap. 520, 11). Increases in capital stock must be approved by the commissioner (1905, chap. 189; and 1908, chap. 590, 5, amd. by 1909, chap. 491, 3).

The board of bank incorporation has authority to refuse to allow the incorporation of a trust company if not required by public convenience, and to refuse to allow a trust company to begin trust business if they think it inexpedient (R. L., chap. 116, 20; 1904, chap. 374, 3; and 1908, chap. 590, 4).

REPORTS.

The recent savings bank act provides that in addition to reports required by law to be made, trust companies must make such other statements to the commissioner as he may require (1908, chap. 590, 13). Every trust company must when required by the commissioner, but not exceed-

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ing five times a year, return to the board a report of its condition at the close of business "on said day" (there seems to be no day previously specified), detailing the following items: Capital stock; amount of all money and property in detail, in the possession or charge of said corporation as deposits; amount of deposits payable on demand or within ten days; amount of trust guaranty fund; trust funds or for purposes of investment; number of depositors; investments in authorized loans of the United States or any of the New England States, counties, cities, or towns; investments in bank stock, railroad stock, and railroad bonds, stating amount in each; loans on notes of corporations; loans on notes of individuals; loans on mortgages of real estate; cash on hand; rate, amount, and date of dividends since last return; and such other information as the board of commissioners of savings banks may require. This return must be made within ten days and must be in the form of a trial balance, specifying different kinds of liabilities and assets in accordance with a blank form furnished by the board. It is published in a local newspaper (1908, chap. 520, 13; and 1908, chap. 590, 5, amd. by 1909, chap. 491, 3). Reports are required to be submitted to the bank commissioner within ten days after the examinations by the committee of three stockholders discussed below. This report is made on forms furnished by the commissioner, and contains a statement of assets and liabilities, including those of the trust department, together with whatever other information the commissioner requires. It specifies loans or discounts which the committee thinks worthless or doubtful and loans made on collateral which is of doubtful value or not readily marketable (1907, chap. 319, 2 and 3). For tax reports, see 1908, chapter 520, 12; and 1909, chapter 342, 2.

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The report required to be made by the bank commissioner to the legislature is as stated under Banks (1908, chap. 590, 15).

EXAMINATIONS.

The general rules for examinations are as stated under Banks. The commissioner or a subordinate, at least annually, and whenever he considers it expedient, visits every trust company (1908, chap. 590, 5). On application of five or more officers, trustees, creditors, or depositors to the commissioner he must make a special examination (1908, chap. 590, 7). He examines trust companies in the hands of receivers (1908, chap. 590, 11).

A preliminary examination is made by the board of bank incorporation to ascertain that the capital has been paid in in cash (1904, chap. 374, 6; and 1908, chap. 590, 4, amd. by 1909, chap. 491, 2). The commissioner may examine trust companies as he does savings banks, and may employ an expert for additional examinations of trust companies that are acting in a fiduciary capacity. He examines whenever ordered to do so by a court of competent jurisdiction (R. L., chap. 116, 37; and 1908, chap. 590, 5, amd. by 1909, chap. 491, 3).

The stockholders of every trust company elect an examining committee of not less than three stockholders, of which certain specified managing officers of the company may not be members. This committee, once a year, without notice to the officers or directors, makes a thorough examination of assets and liabilities, including those of the trust department. Within ten days after their examination they report to the bank commissioner as explained above. If upon receipt of this report, or if upon examination, a further examination or audit of the affairs of a trust company seems necessary, the commissioner may cause it to be made by an expert (1907, chap. 319, amd. by 1908, chap. 520, 14).

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IV.—Reserve Requirements.

Every trust company must have a reserve equal to at least 15 per cent of its deposits, exclusive of savings deposits and of deposits represented by certificates and not subject to be withdrawn within thirty days. Every trust company doing business in Boston must have a reserve equal to 20 per cent of deposits computed in the same manner (1908, chap. 520, 8). At least two-fifths of this reserve must consist of lawful money of the United States, gold or silver certificates, or national bank notes. The remainder may consist of balances payable on demand, due from trust companies in Boston authorized as reserve agents by the commissioner, or from national banks in Massachusetts and named cities. A portion not exceeding one-fifth of the reserve may consist of United States or Massachusetts bonds. The aggregate amount of lawful money of the United States, gold and silver certificates, and national bank notes must equal at least 5 per cent of all deposits exclusive of those in the savings department (1908, chap. 520, 9). The commissioner may authorize any trust company in Boston to act as reserve agent for trust companies doing business in Massachusetts, but a trust company must not keep its reserves in such an authorized trust company without obtaining the commissioner's consent. Not less than one-half of the reserve of a trust company acting as reserve agent must be in lawful money of the United States, gold certificates, silver certificates, or national bank notes, and the remainder may consist of balances payable on demand, due from trust companies in Boston authorized to act as reserve depositaries, or from national banks in Massachusetts or in named cities (1908, chap. 520, 10). While the reserve of a trust company is below the required amount no new loans or investments may be made. The commissioner notifies the com-

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pany to make good its reserve, and if it fails for sixty days sues for a receiver. When the reserve of a reserve depositary is below, the commissioner requires that trust company to make good its reserve, and if it fails to do so within ten days he revokes its authority to be a reserve agent (1908, chap. 520, 11).

V.—Discount and Loan Restrictions.

A trust company may loan its capital or general deposits on real property in Massachusetts and on personal security (R. L., chap. 116, 13). No trust company may advance money on notes secured by mortgage of farms or agricultural or unimproved land outside of Massachusetts except on land in New England or New York, nor may it invest in or make loans upon the securities of a company dealing in notes secured by such mortgages (R. L., chap. 116, 14). No trust company may loan or discount on the security of shares of its own stock unless the security is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months (R. L., chap. 116, 33).

The total liabilities of a person, other than cities or towns, for money borrowed, including in the liabilities of a firm those of its members, to trust companies with a capital of $500,000 or more, must never exceed one-fifth of the surplus and of the paid-up capital; and the liabilities to any other trust company must not exceed one-fifth of paid-up capital. But the discount of bills of exchange drawn in good faith against existing values, and of commercial paper owned by the person negotiating it, are not considered as money borrowed (R. L., chap. 116, 34).

Trust funds are separated from general assets; loans of them are appropriated to the security of the trust deposits (R. L., chap. 116, 24). Loans of savings deposits

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are handled by the savings department of the trust company and are appropriated solely to the security and payment of the savings deposits. They must be made in accordance with the restrictions on savings bank loans (1908, chap. 520, 2 and 3).

See further loan restrictions, under VI.

VI.—Investments.

A trust company may hold unincumbered real estate suitable for its business, to an amount not exceeding 25 per cent of its paid-in capital, and in no case exceeding $250,000 (R. L., chap. 116, 35).

A trust company may invest its capital and general deposits in stocks, bonds, or other evidences of indebtedness of corporations (R. L., chap. 116, 13). A trust company may not invest in the securities of a company dealing in notes secured by real estate mortgages which would not be a legal loan for the trust company (R. L., chap. 116, 14). A trust company may not be agent to deal in securities on which the company could not lawfully loan, nor may it act as agent to deal in evidences of debts secured exclusively by mortgage of real estate (R. L., chap. 116, 15). A trust company may not invest in its own shares unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months (R. L., chap. 116, 33).

There is a separate trust department, the investments of which are especially appropriated to the security of trust deposits and are not mingled with the investments of capital or general assets of the company (R. L., chap. 116, 24). The trust guaranty fund may be invested only in such securities as trust deposits may be invested in (R. L., chap. 116, 25). Trust deposits with a trust company under order of court may be invested only in

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United States securities, securities of any New England State, of any New England municipality, of named States, and of the municipalities of the named States, or in stocks of state or national banks of Massachusetts, or in first mortgage bonds of New England railroads that have paid dividends on all their capital for two years, or in bonds of such a railroad unincumbered by mortgage, or in first mortgages on Massachusetts realty, or in securities in which savings banks may invest, or in loans upon notes, with two sureties, of domestic manufacturing corporations or of individuals with pledge of any of the securities named, but all real estate acquired by judicial process must be sold at public auction within two years (R. L., chap. 116, 17).

If a trust company receives savings deposits, it must keep them in a savings department, and must invest them according to the statutes governing savings bank investments; they are appropriated for the security of savings depositors solely (1908, chap. 520, 1, 2, and 3).

VIII.—Branches.

The board of bank incorporation may authorize any trust company to maintain not more than one branch office, which must be in the city or town in which its main office is located (1908, chap. 520, 15).

IX.—Occupation of the Same Building.

See Banks.

X.—Unauthorized Trust Company Business.

No corporation, whether domestic or foreign, and no person or firm, except savings banks and trust companies incorporated under Massachusetts law, may use a sign, letter paper, etc., on which appears a name or other words

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indicating that the business done is that of a savings bank. See this heading under Savings banks (1908, chap. 590, 16 and 17).

No person, firm, or corporation, except trust companies incorporated under Massachusetts law, may use the words "trust company" in his or its name, or advertise or solicit or receive deposits as a trust company. Whoever violates this provision forfeits $100 for each offense for each day (R. L., chap. 116, 3, amd. by 1909, chap. 491, 1).

XI.—Penalties.

See this heading under Banks for penalties for obstructing examinations, failing to report, occupation by a savings bank of offices with a trust company, and violations of the rule forbidding officers of savings banks to hold office in trust companies (1908, chap. 590, 6, 14, 19, and 20).

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MICHIGAN.

The digest for this State is based upon a reprint of the laws relating to banking compiled under the supervision of George A. Prescott, secretary of state, published in 1908, and including all legislation through the 1907 session of the legislature. Legislation by the 1909 session has been taken from the later reprint, compiled under the supervision of Frederick C. Martindale, secretary of state, published in 1909. The general banking law applies for the most part to both commercial and savings banks, which may be combined. On this account these two sorts of institutions are put under one head in the digest. At the end of each subhead are collected such few provisions as relate either to banks alone or to savings banks alone. There is legislation for trust companies, following the banking act for the most part, even to the language, and scarcely less complete. This has been digested under the heading "Trust companies." A constitutional provision in Michigan requires that a general banking law be approved by a majority of voters at a general election (constitution, Art. XV, sec. 2); it seems that the trust company laws are not within the constitutional provision, since banking powers are expressly denied trust companies (6164). The references in the digest, following those in the reprints of the secretary of state, are, where they are simply numbers in parenthesis, to sections in the Compiled Laws of 1897, the last revision of the Michigan statutes. Amendments as indicated in the two reprints are noted in the digest.

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BANKS AND SAVINGS BANKS.

I.—Terms of Incorporation.

Incorporation under the general banking law may be "to establish offices of discount and deposit to be known as commercial banks, and also to establish offices of loan and deposit to be known as savings banks, or to establish banks having departments for both classes of business." All three of these sorts of banks are regulated by the banking act (6122). The capital stock must be at least $250,000, except that banks with a capital of not less than $20,000 may be organized in a city or village of not more than 1,500; with a capital of not less than $25,000 in a city or village of not more than 5,000; with a capital of not less than $50,000 in a city or village of not more than 20,000; and with a capital of not less than $100,000 in a city of not less than 110,000. Banks having deposits exceeding $5,000,000 must have a capital of not less than $400,000 (6090, amd. by 1899, act 265). The capital must be divided into shares of $100 each (6091). At least 50 per cent of the capital must be paid in before business is begun; the remainder must be paid in in installments of at least 10 per cent on the whole of the capital, payable at the end of each month from the time the bank is authorized to begin business (6094). Any bank which combines the business of commercial and savings banking must keep separate books of account, and all transactions relating to each class of business are governed by the rules applicable to that sort of banking. Savings investments must be separated, savings reserves must be separated, and uninvested savings deposits and investments of savings deposits are held solely for the payment of savings depositors (6118, amd. by 1909, act 193).

Directors may declare dividends out of net profits, but before the declaration not less than one-tenth of the net

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profits for the preceding dividend period must be carried to surplus, until the surplus amounts to 20 per cent of capital (6102).

(For restrictions on banks borrowing, see VI, *infra.*)

COMMERCIAL BANKS.

The salient feature of a commercial bank seems to be that, although it may allow interest on accounts or certificates of deposit, all deposits are payable on demand without notice, unless the contract of deposit otherwise provides (6113).

SAVINGS BANKS.

The statute distinguishes savings banks by providing that they "may receive on deposit money offered by tradesmen, mechanics, laborers, servants, minors, and other persons; and all deposits in said banks may be repaid to the depositors, * * * when required at such time or times and with such interest and under such regulations as the board of directors of the bank from time to time prescribes" (6115).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are individually liable for the benefit of depositors in their bank to the amount of their stock at par in addition to the stock (6135). See constitutional provisions for unlimited liability of officers and stockholders of banks issuing money (constitution, Art. XV, sec. 3), and of stockholders of all corporations for labor (constitution, Art. XV, sec. 7).

There must be not less than five directors, each of whom must own not less than ten shares of stock (6101, amd. by 1899, act 265). The directors appoint an examining committee of directors or stockholders, who must examine

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the bank every six months and report to the directors, with a view to ascertaining what assets of the bank are not of the value at which they appear on the records (6104, amd. by 1907, act 65). The directors, or a committee of at least three of them, must meet monthly to examine loans, investments, and other transactions since the last meeting (1909, act 193).

III.—Supervision.

There is a bureau in charge of the execution of laws relating to banks, trust companies, etc., called the state banking department (6124). The chief officer is the commissioner of the banking department, whose term of office is four years and whose salary is $3,500 a year. Neither the commissioner nor his deputy may be interested in banking business (6125, amd. by 1909, act 103). No one may be appointed to examine a bank in which he is interested in any way. The commissioner and his subordinates must keep secret information obtained in the course of examination except so far as public duty requires them to report (6129, amd. by 1905, act 88).

The commissioner grants a certificate of authority to begin business, which he may withhold, on consultation with the attorney-general, if he has reason to believe that the organization is for other than legitimate purposes (6096). He approves of reductions in capital stock (6099). He approves of cities in which banks may be used as reserve depositaries (6113; and 6116, amd. by 1905, act 262, and by 1907, act 322). When it appears that a bank is borrowing habitually for the purpose of reloaning, the commissioner requires the bank to pay off the borrowed money (6121, amd. by 1905, act 117). He may call stockholders' meetings of any bank (6133). Voluntary liquidations are reported to him (6142) and

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he approves of consolidations (6143). He has supervision over extending the corporate existence of banks (1899, act 143).

With the concurrence of the attorney-general, the commissioner institutes proceedings to wind up the affairs of a bank, under the following circumstances: When a bank's reserve has fallen below the required amount and for thirty days after notice from the commissioner the bank has failed to make the reserve good (6114; and 6116, amd. by 1905, act 262, and by 1907, act 322); when by cancellation of unpaid shares the capital is reduced below the minimum and is not increased to the required amount within thirty days (6095); and when the directors violate or allow a violation of the banking law and after warning from the commissioner fail to make good all damages that have resulted (6109). If the commissioner is satisfied that the capital of a bank is reduced below the legal requirement, and the impairment is not made good as required by him, or if he is satisfied that a bank has refused to pay its deposits, or if it has violated the law or is conducting its business in an unsafe or unauthorized way, or if it refuses to submit to examination, or if from an examination or report he concludes that the bank is in an unsound or unsafe condition, then the commissioner communicates with the attorney-general and institutes through him receivership proceedings. The court appoints the banking commissioner or a subordinate or some other person as receiver. Pending the appointment the commissioner may take possession of the bank (6144, amd. by 1909, act 103). The stockholders of the bank may put it in condition to resume business, in which case the court discharges the receiver (1909, act 193).

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REPORTS.

Every bank makes to the commissioner not less than four reports a year, at times and according to forms he prescribes. They show resources and liabilities at the close of business of a past day specified by the commissioner, and must be transmitted to him within five days after the receipt of his request. They are published in a local newspaper. The commissioner may call for special reports when he thinks them necessary. Every bank must also report within ten days after declaring a dividend the amount of the dividend, the amount carried to surplus, and the amount of excess net earnings (6110). After the examining committee of the directors of every bank have made their semiannual examination and reported to the directors, a copy of the record is sent to the commissioner; once a year a list of stockholders is sent him (6104, amd. by 1907, act 65). There is a provision not part of the banking act that "every banking * * * or other incorporated company" must file annually with the secretary of state a list of the number of shares issued, with the names and addresses of the owners (11364, amd. by 1903, act 35). Receivers must report to the commissioner all their proceedings (6144, amd. by 1909, act 103).

A provision not part of the banking act requires that every third year every person, firm, or corporation who is engaged "in the trust business or the business of banking within this State, and as a part of such business, receive in any manner whatever, moneys, or securities of persons upon deposit," must report to the commissioner deposits where the persons making them have not dealt with them for three years and the depositary has good reason to believe that the depositor is dead. The report includes name of depositor, sum deposited, date and form of deposit,

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interest, and amount, with the total of deposits of this sort (1218).

At the end of every year the commissioner reports to the governor showing a summary of the condition of every bank from which reports have been received during the year, with an abstract of total capital, liabilities, resources, and lawful money held, and such other information as the commissioner thinks is required; a statement of the banks and corporations whose business has been closed, with details; and details of the conduct of the banking department (6132).

EXAMINATIONS.

There is a preliminary examination to ascertain the amount of money paid in on capital, and performance of other preliminaries (6096). The commissioner or a subordinate examines, twice or oftener each year and whenever required by the directors, the cash, securities, books, condition, etc., of every bank (6128, amd. by 1903, act 107, and 1905, act 88). He causes a special examination to be made before allowing a bank to extend its corporate existence (1899, act 143). An examining committee of directors or stockholders make an examination at least once every six months in order to report to the directors assets which are not of the value at which they appear on the books (6104, amd. by 1907, act 65).

IV.—Reserve Requirements.

COMMERCIAL BANKS.

Every commercial bank must keep on hand at least 15 per cent of its total deposits, and every commercial bank in a city of over 100,000 20 per cent of its total deposits, of which reserve one-half must be in lawful money, and one-half may be in deposits payable on demand in banks in

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cities approved by the commissioner as reserve cities (6113). Whenever the reserve of any commercial bank falls below the requirement the bank must not increase its liabilities by making new loans or discounts except by buying sight exchange (6114).

SAVINGS BANKS.

Every savings bank must keep on hand at least 15 per cent of its total deposits, of which reserve one-third must be in lawful money, and the balance on deposit, payable on demand, with banks or trust companies in cities approved by the commissioners as reserve cities, or invested in United States bonds (6116, amd. by 1905, act 262, and by 1907, act 322).

V.—DISCOUNT, LOAN, AND DEPOSIT RESTRICTIONS.

The total liabilities to any bank of any person, firm, or corporation for moneys advanced, including in firm or corporation liabilities those of the members, must not exceed one-tenth of the capital and surplus of the bank, but the discount of bills of exchange drawn in good faith against existing values and the discount of paper owned by the person negotiating it are not considered as money borrowed. The foregoing limitations, moreover, do not apply to loans on real estate or other authorized collateral. The directors, by a two-thirds vote, may allow an increase in the liabilities to the bank of any person, firm, or corporation, to a sum not exceeding one-fifth of capital and surplus. Before any bank loans any of its funds to its officers or employees the directors must approve (6141, amd. by 1899, act 265, 1905, act 262, and 1907, act 322). No bank may take as security a loan upon any part of its capital stock. The same security in kind and amount must be required of stockholders and of persons not stockholders (6090, amd. by 1899, act 265).

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No bank may give a preference to a depositor or creditor by pledging the assets of the bank as collateral, but a bank may borrow for temporary purposes and may pledge assets not more than 50 per cent over the amount borrowed as collateral. When it appears that a bank is borrowing habitually to reloan, the commissioner may require the bank to pay off the borrowed money. These provisions do not prevent a bank from rediscounting and indorsing its notes. No bank may issue its certificate of deposit for the purpose of borrowing money. No bank may make partial payments upon certificates of deposit (6121, amd. by 1905, act 117).

(Incidental loan restrictions appear under VI, *infra*.)

COMMERCIAL BANKS.

No commerical bank may lend to exceed 50 per cent of its capital upon mortgage or any other form of real-estate security, "and then only upon the adoption of a resolution by a two-thirds vote of the board of directors stating to what extent its officers may loan on real estate, * * * except to secure a debt previously contracted in good faith on personal security deemed at the time adequate to secure such loan" (6112). Commercial banks may invest their capital and deposits in negotiable or commercial paper or loans on personal securities (6113).

SAVINGS BANKS.

Savings banks may issue time and other certificates of deposit (6117).

VI.—Investments.

A bank may hold real estate only for the following purposes: Such as is necessary for the convenient transaction of its business, including with its banking office other rented apartments, but this investment must not exceed

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50 per cent of paid-in capital; such as is conveyed to the bank in satisfaction of previous debts; and such as it purchases at judicial sales under securities held by it, but the bank must not bid a larger amount than will satisfy debt and costs. The last two sorts of real estate must be sold within thirty days after the expiration of five years (6100).

No bank may hold any portion of its own capital unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months if it will bring what it cost; and if not sold within a year at the best price obtainable, then it must be canceled (6090, amd. by 1899, act 265).

Not more than one-fourth of the assets of any bank may be invested in steam-railroad bonds; not more than one-tenth in the bonds of any one railroad corporation described in (*c*) or (*d*) of the next paragraph; not more than one-twentieth in the bonds of any corporation described in (*e*), (*f*), or (*g*) of the next paragraph, and not more than one-tenth loaned to any one person, firm, or corporation on pledge of collateral described in (*h*) of the next paragraph (6141, amd. by 1899, act 265; 1905, act 262, and 1907, act 322).

SAVINGS BANKS.

After a savings bank has set aside its 15 per cent reserve, three-fifths of the remainder of savings deposits must be invested as follows: (*a*) In bonds of the United States, or of any State or Territory which has not for ten years failed to pay debt or interest; (*b*) in bonds of any municipality in the United States, if the total debt of the municipality does not exceed 5 per cent of its assessed valuation, and by a two-thirds vote of directors municipal bonds may be purchased if the total liabilities do not exceed 10 per cent of assessed valuation; (*c*) in first-

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mortgage bonds of any steam railroad of any State, if the company has for five years paid 4 per cent dividends on its whole capital stock and has not defaulted for the same time in payment of principal or interest of mortgage debt or bonds guaranteed; (*d*) in first-mortgage bonds of railroads whose lines are controlled by a railroad company specified in (*c*), if the controlling company guarantees principal and interest of the bonds; (*e*) in mortgage bonds of any steam railroad of any State if they have been issued to retire prior mortgages and to provide for improvements, provided the company in question has paid 4 per cent dividends on its whole capital for three years, has a capital of at least one-third the par value of the bonded indebtedness, and has not for three years defaulted on principal or interest of mortgage debt or of bonds guaranteed—bonds under (*e*) must be approved by the securities commission; (*f*) in first mortgage bonds of any electric railroad, street railway, gas or electric light or power company organized under Michigan law, if the company has for five years paid 4 per cent dividends on its whole capital, and has not during the same period defaulted in payment of principal or interest of mortgage debt or of bonds guaranteed; companies in this class which have not yet been operating five years may satisfy the requirements otherwise—bonds under (*f*) must be approved by the securities commission; (*g*) in first-mortgage bonds of steamship companies if the mortgage, entailing liability not in excess of one-half the cost of the property, is on steel steamships of certain tonnage on the Great Lakes; the mortgage must provide for the retirement of 10 per cent of the bonds annually, and certain insurance requirements must be complied with, etc.—bonds under (*g*) must be approved by the securities commission; (*h*) in loans secured by any of the above securities; (*i*) in

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loans upon notes or bonds secured by mortgage of unincumbered real estate worth double the amount loaned. The remainder of the deposits—i. e., two-fifths of those not held in reserve funds—may be invested in notes, bills, etc., secured by deposit with the bank or with a deposit company, of collateral consisting of personal property or securities of known marketable value worth 10 per cent more than the amount of the loan and interest; or may be deposited in a bank or trust company in cities in Michigan or elsewhere, approved by the commissioner as reserve cities. Also, a portion of the remainder, not exceeding the capital and additional stockholders' liability, may be invested in paper approved by the directors. The deposits in any one bank must not exceed 10 per cent of the total deposits, capital, and surplus of the depositing bank (6116, amd. by 1905, act 262, and 1907, act 322). The securities commission that passes upon the securities in (*e*), (*f*), (*g*), and (*h*), above, consists of the commissioner, the attorney-general, and the State treasurer. When an issue of bonds of the classes in (*e*) and (*f*) are presented to the commission, they examine the condition of the issuing corporation, comparing the issue with the valuation of the corporation's property. The securities commission keeps a record of investments which it authorizes banks to make (1905, act 262).

VII.—Overdrafts.

The only reference to overdrafts is in the section which provides that an overdraft of more than ninety days standing shall not be allowed as an asset of a bank (6121, amd. by 1905, act 117).

VIII.—Branches.

The constitution gives the legislative power, by a two-thirds vote to "create a single bank with branches" (constitution, Act XV, sec. 1). This clearly is not con-

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cerned with branches of regular state banks or savings banks.

X.—Unauthorized Banking.

No incorporated company without express authorization of law may be interested in receiving deposits, making discounts, etc.; any director, officer, or agent of a company who violates this provision forfeits $1,000 (11351). The act relative to bankers and banking firms forbids their advertising, etc., in such a way as to represent themselves as "an organized bank," though they may employ the words "bank" and "banking office" in connection with the individual or firm name. Violation of the section is a misdemeanor, punishable by fine of not more than $200 or imprisonment for not more than six months (5275).

XI.—Penalties.

Every bank which fails to report is subject to a penalty of $100 a day during the delay (6111). Failure to report unclaimed deposits after being required to do so by the commissioner of banking entails a penalty of $300 for each failure, and an additional $10 a day while the report remains unfiled (1219). Any company which fails to report to the secretary of state annually a list of stockholders is liable to a fine of not more than $500 (11365). The officers of a bank whose duty it is to keep a book with names and residences of stockholders, stock transfers, etc., forfeit $100 for every day's neglect if they fail to keep the book, and $50 for a refusal to exhibit it to one rightfully demanding inspection (6134).

Every officer, director, or employee who embezzles, makes a false entry, reports falsely, with intent to deceive an examining officer, etc., is imprisoned for not longer than twenty years (6147). Any officer or employee who certifies to a check for which there are not funds to the

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credit of the drawer, any director or officer who receives a deposit knowing his bank to be insolvent, and any officer or employee who knowingly assists in a violation of the banking act is punished by imprisonment for not longer than five years, fine of not more than $1,000, or both (6108, 6103, and 6107, amd. by 1899, act 265).

Any bank combining commercial and savings banking which does not keep separate accounts, separate investments, etc., suffers a penalty of $50 for each offense (1909, act 193).

Any person who: First, knowingly makes a false statement in writing to a person, firm, or corporation engaged in banking or other business, respecting his own financial condition or that of a firm or corporation with which he is connected, for the purpose of procuring a loan or credit from the person, firm, or corporation to whom the false statement is made; or, second, having made, or knowing that another has made, a false statement in writing to a person, firm, or corporation engaged in banking or other business, respecting his own financial condition or that of a firm or corporation with which he is connected, afterwards procures a loan or credit on the faith of the statement, knowing at the time that the statement was false; or, third, delivers to a note broker a statement in writing, knowing it to be false, respecting his financial condition or that of a firm or corporation with which he is connected, for the purpose of using the statement to further the sale, pledge, or negotiation of commercial paper, made or indorsed, etc., by him or his firm or corporation; or, fourth, having previously delivered, or knowing that another has previously delivered, to a note broker a statement in writing with respect to his own financial condition or that of a firm or corporation with which he is connected, afterwards delivers to the broker for the purpose of sale, pledge, or negotiation, on the faith of the statement, any commercial

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paper made or indorsed, etc., by him or his firm or corporation, knowing that the statement is false—is guilty of a misdemeanor, punishable by fine of not more than $500 for each offense, or imprisonment for not longer than six months, or both fine and imprisonment (1909, act 25). Whoever willfully makes a false statement in writing of his property valuation or his indebtedness, to obtain credit, is guilty of a felony, punishable by imprisonment for not longer than one year and fine not exceeding $1,000 (1909, act 85). Any person who willfully and maliciously makes a statement derogatory to the financial condition of a bank, savings bank, or trust company doing business in Michigan, or who aids in the circulation of such a statement, or rumor, is guilty of a felony, punishable by fine of not more than $5,000, or by imprisonment for not longer than five years, or both (1909, act 273).

TRUST COMPANIES.

I.—Terms of Incorporation.

The section of the chapter on trust, deposit, and security companies which enumerates the powers of such companies provides that "nothing herein contained shall be construed as giving the right to issue bills to circulate as money, or buy or sell bank exchange, or do a general banking business" (6164). Note that deposits of savings bank reserves may be made "in any national bank, *trust company*, or bank in cities in this or any other State, approved by the commissioner," etc. (6116, amd. by 1905, act 262, and 1907, act 322). Trust companies, moreover, may keep their reserves "in any bank or *trust company* approved by the commissioner" (6165).

The capital stock of a trust, deposit, and security company must be at least $300,000 and not more than $5,000,000, except that in cities of less than 100,000 it

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must be not less than $150,000. Fifty per cent of the capital must be paid in in cash before business is begun, and the rest within six months thereafter (6157). Shares must be of $100 each (6158).

Dividends may be declared out of net profits, but before the declaration not less than one-tenth of the net profits for the preceding dividend period must be carried to surplus until it amounts to 20 per cent of the capital (6162).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders are individually liable for all obligations of the corporation to the extent of the amount of their stock at par in addition to the amount invested in the shares (6169).

There must be not fewer than seven directors, each the owner of at least ten shares of stock (6162).

III.—Supervision.

See III under Banks and Savings banks for provisions dealing with the commissioner, his qualifications, salary, report to governor, etc. The trust company act provides that all trust, deposit, and security companies are subject to the inspection and supervision of the commissioner of the banking department (6172). It provides for secrecy on the part of him and his subordinates and forbids examination by anyone interested in the trust company examined (6174). It gives him power to call stockholders' meetings of trust companies (6177). It provides that he is to be notified of voluntary dissolutions (6182) and must approve of consolidations (6183), and that he is to designate banks and trust companies which may act as depositaries of trust company reserves (6165). It gives him power to authorize

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trust companies to begin business (6157). The misconduct upon which receivership proceedings may be based is similar to that in the banking act; if the directors allow a violation of the trust company act and after warning from the commissioner fail to make good damages which result (6162), or if an officer refuses to allow examination (6175), or if it appears from a report, or the commissioner has reason to believe, that capital is impaired or reduced, which deficiency the trust company fails to make good on ninety days' notice (6176), or if the commissioner is satisfied that a trust company has refused to pay its obligations or has become insolvent, or that its capital has become impaired, or that it has violated the provisions of the trust company law, he proceeds with the approval of the attorney-general for a receiver (6184).

Every trust company deposits with the state treasurer not less than 50 per cent of the amount of its capital, nor more than $200,000 in bonds and mortgages of certain sorts, to be held by the state treasurer as security for depositors and creditors (6157).

REPORTS.

Every trust company makes to the commissioner not fewer than four reports each year at such time and in such form as the commissioner prescribes. The reports exhibit resources and liabilities of the corporation at the close of business on a past day specified by the commissioner. They are transmitted to him within five days after the receipt of his request and are published in a local newspaper. The commissioner may call for special reports whenever they are necessary. In addition each trust company must report to the commissioner within ten days after declaring any dividend the amount of the

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dividend, the amount carried to surplus, and the amount of excess net earnings (6170).

Receivers report all their acts to the commissioner (6184). (See Banks and Savings banks for the list of stockholders required to be sent every year to the secretary of state (11364, etc.) and the report of unclaimed deposits (1218).

EXAMINATIONS.

The commissioner or a subordinate examines once every year, and when requested by the directors, the cash, bills, securities, books, condition, etc., of every trust company, to determine among other things whether the company transacts its business at the place designated in its articles of incorporation and whether it complies with law (6173).

IV.—RESERVE REQUIREMENTS.

Every trust company must keep on hand funds to an amount equal at least to 20 per cent of its matured obligations and money due and payable, three-fourths of which reserve may be kept in any bank or trust company approved by the commissioner of the banking department (6165).

V.—DISCOUNT AND LOAN RESTRICTIONS.

Trust companies may "loan money upon real estate and collateral security" (6164).

VI.—INVESTMENTS.

Any trust company may hold personalty which is necessary to carry on its business, or which it is necessary to acquire in the enforcement of claims, etc.; also real estate, but only for the following purposes: Such as is necessary

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for the convenient transaction of its business, including with its office other apartments in the same building which may be rented, but this investment must not exceed 50 per cent of its paid in capital and surplus; such as is conveyed to the company in satisfaction of previous debts; and such as it purchases at judicial sales under liens held by it, but it must not bid more than is necessary to satisfy debt and costs. Real estate of the second and third sorts may not be reckoned as an asset for longer than five years. Real estate may, of course, be held in trust (6165).

The capital which is required to be deposited in the state treasury must be invested in bonds secured by mortgages, or notes and mortgages on unincumbered real estate in Michigan, worth double the amount secured, or in securities of the United States, or of any State that has not defaulted on principal or interest in ten years, or of any municipality in Michigan or in any other State. The balance of the capital stock, together with trust funds, may be invested in or loaned on securities of designated sorts, or whatever real or personal securities the directors think proper (6166).

XI.—Penalties.

A trust company which fails to report is subject to a penalty of $100 a day (6171). See Banks and Savings banks for the penalties for failure to send annually a list of stockholders to the secretary of state and for failure to report unclaimed deposits. If the officer of a trust company whose duty it is to keep a book for names of stockholders, transfers of stock, etc., fails to keep the book he is liable to a penalty of $100 for every day's neglect, and if he refuses to exhibit the book to a person rightfully demanding inspection he is subject to a penalty of $50 (6178). See also the last paragraph under XI in

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Banks and Savings banks, for 1909 statutes which provide penalties for making various false statements to procure credit, circulating rumors derogatory to a trust company's credit, etc.

Every officer, director, or employee who embezzles or commits various frauds, including false entries or reports to deceive an examining officer, is imprisoned for not longer than twenty years (6187). The directors and officers of a trust company who receive money or property knowing the corporation is insolvent are guilty of a misdemeanor punishable by fine of not more than $1,000, imprisonment for not longer than a year, or both. Officers or employees who assist in the violation of any provision of the trust company act are guilty of a misdemeanor punishable by a fine of not more than $1,000, or imprisonment for not longer than one year (6162).

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MINNESOTA.

The Revised Laws of Minnesota, including all statutes enacted prior to the session of 1905, contain a division dealing with "Financial corporations." This in turn is divided into "general provisions" (secs. 2967–2982), "banks" (secs. 2983–3008), "savings banks" (secs. 3009–3032), "trust companies" (secs. 3033–3047), "local building and loan associations" (secs. 3048–3058), and "general building and loan associations" (secs. 3059–3067). The digest, which follows this arrangement of the statute, is confused by the necessity of inserting important statutes, chiefly of 1909, which seem for the most part properly under "General provisions," and leave it doubtful just which of the old sections they repeal. One of the 1909 statutes creates the office of superintendent of banks, who takes over the work formerly in the hands of the public examiner; but since the statutes all read "public examiner," they are so digested, leaving it for the reader to note that the new official is now substituted. Under heading "General provisions" are inserted such parts of the statute on financial corporations and such other provisions of the Minnesota statutes as apply generally to all three kinds of banking institutions. Under "Banks," "Savings banks," and "Trust companies," respectively, are inserted the provisions applicable to each class. Where the references are simply numbers in parenthesis, they are to sections in the Revised Laws of 1905. Other references are to the later statutes by year and chapter; they have been examined through the laws of 1909.

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GENERAL PROVISIONS.

II.—Liabilities and Duties of Directors.

There must be at least three directors, who must be stockholders (2858).

III.—Supervision.

Two late statutes alter the system of bank supervision materially; one, chapter 201 of 1909, creates a department of banking in charge of a superintendent of banks, provides for a system of examination, etc., and the other, chapter 179 of 1909, provides for proceedings against delinquent corporations and for the liquidation of their assets.

The department of banking has charge of the execution of all laws relating to banks, savings banks, trust companies, building and loan associations, and other financial corporations chartered under the laws of Minnesota; the chief officer of the department is the superintendent of banks (1909, chap. 201, 1). The superintendent, appointed by the governor for a term of three years, must be a practical banker of not less than five years' active experience. He must not, during the term of his office, hold any other public office, nor be a stockholder, officer, employee, etc., of any financial corporation within or outside of Minnesota (1909, chap. 201, 2). He is vested with all of the authority and takes over all of the duties formerly in the hands of the public examiner with respect to banks, savings banks, trust companies, building and loan associations, and other financial corporations (1909, chap. 201, 4 and 5). He may appoint eight examiners and certain other employees; the examiners must have had at least three years' active experience in the banking business. No examiner may examine any corporation in which he has a direct or indirect interest (1909, chap. 201, 8). The

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State is divided into eight districts for examination, to each of which an examiner is appointed (1909, chap. 201, 9). The superintendent's salary is $5,000 a year (1909, chap. 201, 11).

The public examiner (whose duties have now devolved upon the superintendent of banks—1909, chap. 201, 4) may, under certain circumstances, take possession of the property and business of a bank, savings bank, or trust company and hold possession until the corporation resumes business or is finally liquidated. The circumstances under which he may so act are the following: Whenever it appears to him that a bank has violated its charter or any statute, or is conducting its business in an unsafe or unauthorized manner, or that its capital is impaired; whenever it refuses to submit to examination or suspends payment, or furnishes reason for the examiner to conclude that it is in an unsound or unsafe condition to transact its business, or that it is unsafe and inexpedient for it to continue business; and whenever it fails to observe a proper order of the examiner. This statute provides elaborately for the liquidation by the examiner of such delinquent banks, the proof of claims against their assets, the distribution of their funds to depositors, creditors, and stockholders, etc. (1909, chap. 179).

Chapter 201 of 1909 provides for the repeal of all laws inconsistent with it; there is no repealer at all in chapter 179. The digest accordingly includes in the paragraph below and in certain paragraphs in III, under Banks, under Savings banks, and under Trust companies, provisions of the Revised Laws and of later statutes which are, in all probability, repealed by the 1909 legislation. It is to be borne in mind also that chapter 201 transfers from the public examiner to the superintendent of banks all powers and duties with respect to banks, savings banks, and trust companies; the examiner's name is used in the digest

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because it so appears in the statutes, even those of 1909, except chapter 201.

When the examiner is of opinion that an examined corporation may not operate further without danger to public interests, he takes possession of its property and reports to the governor for appropriate action (2968). He supervises voluntary liquidations (2969, 2970, and 2971). Whenever any banking corporation becomes insolvent, fails to pay its debts, or violates any provision of law, it may be enjoined by the court from transacting further business (3179). In certain cases the court may appoint a receiver (3180).

The examiner, before granting a certificate to an incorporating banking institution, must be satisfied that the corporation has been organized for legitimate purposes under conditions to merit public confidence, and that it has complied with law (2974).

REPORTS.

The eight examiners appointed under the statute of 1909 report to the superintendent immediately after having examined the condition of any institution, making such recommendations as they deem advisable (1909, chap. 201, 10). The superintendent of banks reports annually to the governor touching his official acts, with abstracts of the condition of the corporations to which his duties relate, making whatever recommendations he thinks proper; this report he must distribute to the corporations under his charge (1909, chap. 201, 7).

The examiner under the old statute reported to the governor biennially, giving an abstract of the work of his department, and the condition of the corporations to which his duties related; he might make whatever recommedations he thought proper (1907, chap. 128). After making the examination discussed below, the pub-

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lic examiner is required, if the provision of the Revised Laws is still in force, to report promptly the condition of the examined corporation to the governor, especially with regard to infringements of law. This report the governor may publish (1584).

EXAMINATIONS.

Under the statute of 1909 the superintendent, through his examiners, visits, at least twice each year, every state bank, savings bank, and trust company, inspecting and verifying its assets and liabilities thoroughly enough to ascertain if its assets are correctly carried on its books; he investigates the conduct of these corporations and their systems of accounting to determine whether they accord with law and sound banking principles (1909, chap. 201, 4). The older provisions of the Revised Laws, given in the following paragraph, seem clearly overridden by the foregoing.

At least once a year the public examiner was, under the provisions of the Revised Laws, required to visit all banking corporations, to inspect and verify their assets and securities, assure himself of the validity of their mortgages, and ascertain whether their transactions were legitimate (1584). The examinations might be as much more frequent than annual as the examiner thought necessary. Without previous notice he or his deputy visited and examined the business and offices of each corporation; ascertained its financial condition and its ability to perform its functions, with special reference to any violations of law (2968).

VII.—Overdrafts.

There is evidently no general objection to overdrafts, for they are mentioned as a possible liability of the director of a trust company to his corporation (3045).

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XI.—Penalties.

Every person who fails to obey an order of the superintendent of banks or withholds any information called for by him for purposes of examination, or who willfully obstructs or misleads him, or swears falsely, is guilty of a felony punishable by fine of at least $1,000, or imprisonment for at least one year (1909, chap 201, 6).

Any person who (1) makes a false statement to a bank, savings bank, or trust company respecting his financial condition or that of another, for the purpose of procuring a loan from the corporation to which the statement is made; or (2) having previously made or having knowledge that another has made a statement to a bank, savings bank, or trust company respecting his or another's financial condition, afterwards on the faith of the statement procures from the bank, savings bank, or trust company a loan, knowing that the statement is false; or (3) delivers to a note broker for the sale or negotiation of commercial paper to a bank, savings bank, or trust company, a false statement respecting his own or another's financial condition for the purpose of having the statement used to further the sale, pledge, or negotiation of the commercial paper; or (4) having previously delivered or knowing that another has previously delivered to a note broker for the sale or negotiation of commercial paper a statement respecting his own or another's financial condition, afterwards delivers to the note broker for the purpose of sale, pledge, or negotiation on the faith of the statement any commercial paper, knowing that the statement is false with respect to his own or another's financial condition, is guilty of a gross misdemeanor punishable by a fine not exceeding $1,000, or imprisonment not exceeding five years, or both (1909, chap. 431).

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Corporations failing to report to the public examiner within ten days after the proper time forfeit $100 per day (2979). Persons who refuse to testify before the examiner or who obstruct or mislead him are punished by a fine of $1,000 or imprisonment for one year (1587).

There is a general provision making it a felony for an officer or employee of a banking corporation to violate the provisions of the statutes (2981). It is also a felony for officers, directors, and employees to receive deposits in an insolvent bank, punishable by imprisonment for not less than one or more than ten years or by fine of not less than $500 nor more than $10,000 (5118).

BANKS.

I.—Terms of Incorporation.

The capital of every bank of discount and deposit must be at least $10,000 in a municipality of not over 1,000 population; at least $15,000 in one of over 1,000 and not over 1,500; at least $20,000 in one of over 1,500 and not over 2,000; and at least $25,000 in one over 2,000. The capital must be paid in full in cash (2983); when the bank presents its certificate of incorporation to the examiner it must present also the certificate of a solvent bank of the deposit in that bank to the credit of the proposed bank of an amount equal to its capital stock (2973.)

At the end of each dividend period one-fifth of net profits must be set aside before declaring a dividend, until the surplus equals one-fifth of the capital (2987). Capital must never be withdrawn in dividends or otherwise except according to the legal mode of reducing it (2997).

A bank may conduct a savings department under the supervision of the state examiner (1909, chap. 178).

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II.—Liabilities and Duties of Stockholders and Directors.

Stockholders in banks of discount and deposit are individually liable for the debts of the bank in an amount equal to the amount of stock owned by them. Even after stock has been transferred, this liability continues to rest upon the transferrer for a year (1907, chap. 137).

Directors of a bank whose capital is not over $15,000 must each own $300 of stock; directors in banks with a capital exceeding that sum, at least $500 (2986).

III.—Supervision.

A statute of 1909, digested under General Provisions, provides for dissolution proceedings. The sections given in the next paragraph, though not expressly repealed, seem in part inconsistent with the new act.

When a bank is about to become insolvent its managing officers must report that fact to the examiner. If the latter is satisfied that the bank is insolvent, that its books are fraudulently kept, or that it has violated the law, he may take possession of the bank's property, may examine the bank, and apply for a receiver (2998). If a bank fails to pay up its capital stock, or if its capital stock is impaired, it must make up the deficiency within ninety days after notice from the examiner, or go into liquidation. If it refuses, a receiver may be appointed. The examiner has authority to empower the bank to réduce its capital, avoid the receivership, and continue with smaller capital (3000). If capital is impaired by reason of cancellation of shares on which an assessment is unpaid, a receiver may be appointed if the impairment is not made good in thirty days (3002).

The examiner has authority over reorganizations and consolidations (3001 and 3004). He determines what books must be kept (2991).

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REPORTS.

At least four times a year, and at other times if requested by the examiner, every bank must within seven days transmit to the examiner, in a form prescribed by him, a report stating its assets and liabilities at the close of business on a day specified in the report, if it is a special request, otherwise on the last business day of the preceding month. This report is published in a local newspaper (2990). Annually, banks file, with the register of deeds and the examiner, a copy of their list of stockholders with the amount of stock held by each (1907, chap. 137). The report of the examining committee of the directors of banks alluded to below is transmitted to the examiner (2988).

EXAMINATIONS.

The directors appoint certain of themselves as an examining committee to examine the bank's condition semi-annually, and oftener if required. The committee reports on all assets carried on the books in excess of the actual value thereof. This report is transmitted to the examiner (2988).

IV.—Reserve Requirements.

Every bank keeps a reserve equal to one-fifth of its demand liabilities. One-half of the reserve must be in cash, including specie, legal tender, and national-bank notes, and the rest may be in balances due from solvent banks (2996).

V.—Discount and Loan Restrictions.

The total liability to any bank, as principal or surety, of any person, corporation, or firm, including the liabilities of the members, must not exceed 15 per cent of the bank's capital and surplus, except that if the loans are on first mortgage of improved farms in Minnesota, the limit is

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20 per cent, though the mortgage loans must never exceed 50 per cent of the cash value of the mortgaged land. The total liability of any officer or director must never be more than 10 per cent of stock and surplus. In reckoning these loan limits, however, discounts are not regarded as creating liability, if they are of commercial paper of certain sorts (1907, chap. 156). Loans to directors must be subject to the same regulations as to others and must be made by the board and acted upon in the absence of the applicant (2989).

No bank may loan or discount on the security of its own stock (2992).

VI.—Investments.

The real estate used by a bank for the transaction of its business may include premises leased to others, but the entire cost must not exceed 25 per cent of capital and surplus. It must hold no other real estate longer than five years, unless the time has been extended by certificate of the examiner. The examiner must approve of changes of location (2995 and 2976).

No bank may be purchaser or holder of its own stock unless it is necessary to prevent loss on a previously contracted debt. Stock so acquired must be disposed of within six months (2992).

X.—Unauthorized Banking.

Persons, firms, and individuals doing a banking business must consent to supervision, otherwise they are not entitled to use the word "bank" on stationery, or in advertisements, etc. Unauthorized use of the title "bank" is a misdemeanor (1907, chap. 111).

XI.—Penalties.

The penalty for failure to keep proper books is $10 per day (2991).

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SAVINGS BANKS.

I.—Terms of Incorporation.

The statutes dealing with savings banks evidently contemplate institutions without capital stock. A savings bank is defined to be a corporation managed by disinterested trustees, solely authorized to receive "the savings of small depositors" (1909, chap. 103). It must be shown to the examiner that it is expedient to organize a savings bank (3009), and that preliminary publication has been made of incorporators' names, etc. (2973).

The depositors in savings banks receive as nearly as possible all the profits after expenses and surplus have been set aside. When the surplus amounts to 15 per cent of the deposits, at least once in three years the savings bank divides the excess as an extra dividend, for which purpose the depositors may be divided according to the character of their dealings with the bank (1907, chap. 468, sec. 9).

II.—Liabilities and Duties of Trustees.

The business of a savings bank is managed by a board of at least seven trustees, residents of the county of the bank's location (2858 and 3014). The bonds which they give may be sued upon by any person damaged by the trustees' breach (3012). If the trustees declare a dividend in excess of that earned, those who vote for it are liable to the bank (1907, chap. 468, sec. 9).

The trustees must meet at least once a month (1907, chap. 468, sec. 3). No officer of a savings bank may engage in lending money, protesting paper, or doing any other sort of business in or about the bank except as his duties require (3024). No trustee may have any interest in the profits of the bank, nor take any compensation for his services, except when he acts as an officer whose duties

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require regular and faithful attendance, or as member of a committee whose duties require actual service; the board of trustees, exclusive of the one who is to receive compensation, vote upon his salary. No trustee or officer may borrow funds or in any manner use funds except in necessary disbursements authorized by specific resolution of the board. No officer or trustee is allowed to make himself liable to the bank for money loaned or in any other way; nor may he become employed by any other savings bank (1907, chap. 468, sec. 4).

III.—Supervision.

The examiner passes upon the expediency of proposed organizations (3009). When he believes that a savings bank is conducting its business in an unsafe or unauthorized manner, he directs the methods to be discontinued. If the bank refuses to comply or make report, or if the examiner thinks it unsafe for the bank to continue business, he may institute proceedings for removal of trustees, transfer of corporate powers to other persons, or any other appropriate action (3030). See General Provisions, III, for the important statute of 1909 on proceedings by the examiner against corporations which are in default.

REPORTS.

The trustees report annually, in the form prescribed by the examiner, the condition of the savings bank at the end of the preceding calendar year. The report is based on the examination discussed below, and includes the items there enumerated (1907, chap. 468, sec. 10).

EXAMINATIONS.

The trustees annually cause a thorough examination to be made by an expert accountant, showing the savings bank's condition at the end of the year, specifying the

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following: Loans or notes secured by mortgages, with items as to locality, amounts paid, foreclosures, etc.; value of bond investments, with particulars; loans on pledge of securities, with particulars; defaulted interest on obligations held; investments in real estate; cash on hand, on deposit, and where deposited; such other information as the public examiner may require (1907, chap. 468, sec. 10). Also amount due depositors, and all claims against the savings bank which may be a charge on its assets; various items with regard to deposits; their amounts; the amounts withdrawn; dividends declared; number of accounts, etc. (3028).

V.—Discount, Loan, and Deposit Restrictions.

No trustee or officer may borrow the funds of a savings bank nor become liable to the bank as surety (1907, chap. 468, sec. 4). See VI, below, for further loan restrictions.

Savings banks must receive all money offered for deposit in amounts of not less than $1 nor more than a maximum fixed by the bank's by-laws, which must, however, never exceed $5,000 (3017).

VI.—Investments.

Savings banks must not hold land and buildings for the transaction of their business in excess of a value equal to 50 per cent of the net surplus of the bank (2976). Savings banks may hold land sold on foreclosure of mortgages owned by the bank, or upon judgments in favor of the bank, or they may take land in settlement of debts, or in exchange as part of the consideration of land they sell. This land must ordinarily be sold within ten years of its acquirement (3021). The authorized securities for savings bank investment include only the following: First, United States securities; second, bonds of any State which has not defaulted within ten years; third, bonds of coun-

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ties, cities, etc., in Minnesota and neighboring States, or securities of Minnesota, or securities of cities, counties, etc., in the United States of at least 3,500 inhabitants, but the total bonded debt of the municipality must not exceed 10 per cent of its assessed valuation; fourth, notes secured by mortgages on unencumbered realty in Minnesota and neighboring States worth, if improved, at least twice, and if unimproved, at least three times, the amount loaned, but not more than 70 per cent of the money of the bank must be loaned in this way; fifth, notes secured by such bonds or mortgages as the bank is authorized to invest in, but the collateral must not be taken for more than its par value, the securities must equal the full amount loaned, the loan must be for not more than a year and no greater to any one person than 3 per cent of the deposits of the bank—not more than one-fourth of the bank's deposits must be thus loaned; sixth, railroad bonds of companies which have received a land grant from the Government, if the bonds are a first lien upon the railroad; seventh, bonds of other railroad companies which are a first lien upon a railroad within the United States, or in refunding mortgage bonds of such a railroad, or in the bonds of any railroad in the United States guaranteed by another railroad in the United States, provided that the railroad company, except one whose bonds are thus guaranteed, has not within five years failed to pay dividends of not less than 4 per cent on its whole capital, and has not defaulted in payment on its bonds—savings banks, however, must not invest in railroad bonds more than 20 per cent of their deposits nor more than 5 per cent of their deposits in the securities of one railroad; eighth, in debenture stock of a Minnesota railroad, if the stock bears interest at at least 4 per cent and is secured by a first lien on the railroad, but not more than 5 per cent of the bank's deposits may be thus invested (3022, and 1907, chap. 468, secs. 7 and 8).

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Deposits must be promptly invested, except so much, not exceeding 15 per cent, as may be required for current necessary disbursements. This expense fund may be put into demand loans secured by securities of the first two classes, or if these loans are not to be obtained, the fund may be deposited in solvent authorized banking institutions in Minnesota, New York City, or Chicago (3023). Savings banks must not deal in property or engage in other business not essential to the transaction of its own (3024).

X.—Unauthorized Banking.

Only savings banks and safe deposit and trust companies complying with all provisions of the law applicable to the business done are allowed to make use of letter heads, advertisements, etc., representing them authorized to transact that sort of business, or to use "savings" or "trust" in their names, or to solicit or do a savings bank or trust company business. An exception is made for state banks, which may conduct and advertise a savings department. The penalty for breach of these provisions is $100 a day (2978, amd. by 1909, chap. 178).

XI.—Penalties.

The trustee who becomes interested in the savings bank's profits, or who takes unauthorized compensation, or becomes obligated to the bank, or becomes employed by another savings bank, vacates his office and becomes ineligible to office in any savings bank. Six months' neglect of duty by a trustee is also cause for loss of office (1907, chap. 468, sec. 4).

TRUST COMPANIES.

I.—Terms of Incorporation.

The capital of a trust company must be not less than $200,000 nor more than $2,000,000. Before it transacts business at least $200,000 must have been actually paid in

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in cash, and at least one-fourth of its capital must have been invested in securities belonging to classes first, second, third, fourth, seventh, and eighth of the authorized investments for savings banks. The securities thus invested in are deposited with the public examiner, as a guarantee for the trust company's faithful discharge of its duties. The company collects the income and may exchange securities (3033).

Trust accounts must be kept separate from the company's general accounts (3044).

II.—Liabilities and Duties of Directors.

Directors must own at least ten shares of stock, and a majority of them must be residents of Minnesota (3034).

III.—Supervision.

The provisions of 1909, chap. 179 (see General Provisions, III), though they do not expressly repeal the following section, seem inconsistent with it: When the officers of a trust company believe that it is about to become insolvent, they report to the examiner. If he believes from that report, or from his own examination, that it is conducting its business unlawfully or unsafely, or that it is insolvent, he may take possession of the company's affairs for a thorough examination. If necessary, the examiner may then apply to a court for a receivership. The court judges of its necessity (3047).

Reports.

Trust companies annually render the public examiner a detailed account of their condition, with such supplementary information in relation to particular transactions as the examiner may require. A condensed statement of the annual account with a list of the directors, approved by the examiner, is published in a local newspaper (3046).

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V.—Discount and Loan Restrictions.

Trust companies may not loan any funds to officers or employees. No officer or employee may become indebted to a trust company by means of overdraft or other contract (3045).

VI.—Investments.

The entire cost of land and buildings for the transaction of a trust company's business must not exceed 25 per cent of its capital and surplus (2976).

A trust company may acquire real and personal property necessary for its business. If it acquires real estate on foreclosure of a mortgage in the course of its legitimate business, it may deal with the real estate for its best interests, and may purchase if necessary at foreclosure or judicial sale. It may loan money and secure these loans by mortgage, purchase and sell securities, and may guarantee title to securities sold by it (3035). In ordinary cases trust funds must be invested in the same securities authorized for savings bank investments (3040). It must not engage in unauthorized businesses (3045).

VII.—Overdrafts.

No officer or employee may become indebted to his corporation by means of overdraft or other contract (3045).

X.—Unauthorized Trust Company Business.

See Savings Banks, X.

XI.—Penalties.

Directors who borrow from the trust company are guilty of larceny (3045).

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MISSISSIPPI.

The Code of 1906 contains one brief chapter (14), entitled "Bank statements," practically the only banking law of the State. The digest includes this chapter, a few other sections of the Code relating to banks, and two statutes of 1908. The references that are simply numbers in parenthesis are to sections in the Code of 1906. Since the statutes make no effort to provide separately for different classes of banking institutions, the digest is not divided under the usual three heads; each provision is given, using the words of the statute, whether "banks," or "banks and trust companies," etc. The digest carries legislation through the session of 1908.

I.—Terms of Incorporation.

"Every bank and every person, corporation, or association of persons * * * organized to receive money on deposit, issuing, buying, or selling exchange, or doing a banking business" must have, in towns of 500 or less, a capital of not less than $10,000, and in towns or cities of over 500, not less than $15,000. This must be paid in in cash before business is begun, and, if the capital is larger, the additional amount must be paid in in not less than five equal monthly installments (1908, chap. 110).

Any bank with a paid up capital of at least $100,000 may include a trust company business in its transactions (263). "Such corporations" (by which trust companies appear to have been meant) are governed by the same laws as other banking institutions (264).

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II.—Liabilities and Duties of Stockholders and Directors.

There is no provision for liability of shareholders in banks.

The board of directors "of every bank" must hold at least three regular meetings a year to make full investigation of the affairs of the bank (262). The directors, or a majority of them, "of all banks, branch banks, and trust companies" must personally inspect the affairs of the institution on the first Wednesday of January, April, July, and October, or within ten days after those days (1908, chap. 110). The latter of the two provisions just stated seems to override the former in the matter of requiring four inspections a year by directors instead of three. The director of any "bank of deposit" who authorizes a loan in excess of one-fifth of the capital to any officer or director is individually liable to the bank for loss thereby sustained (922).

III.—Supervision.

Apparently there is no particular official charged with the supervision of banks; the auditor of public accounts receives reports, etc.

Reports.

"Every bank and every branch bank and every person, corporation, or association of persons receiving money on deposit, or issuing or buying and selling exchange, or otherwise doing a banking business" must make a balanced statement to the auditor at least four times a year with reference to the condition of the bank, its resources and liabilities, and the amount of indebtedness to the bank of owners, stockholders, and directors. The auditor furnishes forms. The statements are published in a local newspaper (1908, chap. 111). The requisitions must be

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made at times known only to the auditor (257). After providing that a bank may also do the business of a trust company, it is said that "such corporation" must make the same reports as other banking institutions (264); it is clearly meant that trust companies must make the reports. Directors of "banks, branch banks, and trust companies" after their quarterly inspection must report their findings to the auditor (1908, chap. 110). For reports required for purposes of taxation see 4273; and for the penalty for failing to make those reports, 1048.

EXAMINATIONS.

There seems to be no provision for examination by an official of the State. The board of directors make the examinations explained above (262, and 1908, chap. 110).

V.—DISCOUNT AND LOAN RESTRICTIONS.

"Banks" may loan money to their stockholders; but "a bank of deposit" must not loan a sum greater than one-fifth of its capital to any officer or director (922). Trust companies (that is what "such corporation" seems to mean in the section) may loan "on real estate or collateral security" (264).

VI.—INVESTMENTS.

Trust companies may own such real estate as is required for the convenient transaction of their business, and such as they may acquire in the enforcement or collection of debts due them (265).

VIII.—BRANCHES.

There is a provision in the Code of 1906 forbidding the establishment of branches; there may be no branch banks in Mississippi, and no Mississippi bank may establish a

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branch in Mississippi or elsewhere (260). For branches already operating when this statute went into effect it was provided that there should be set apart and devoted to each branch not less than $10,000 of the parent corporation's capital for the exclusive use of the branch (261).

X.—Unauthorized Banking.

"Bank" or "banking" must not appear in the name of an institution not authorized by its charter to do a banking business, and "trust" or "trust company" must not appear in the name of any corporation not authorized by its charter to transact a trust company business (266).

XI.—Penalties.

The penalty for rendering a false statement of the affairs of a banking corporation is a fine upon the members of not less than $100 (1908, chap. 110). Failure to make the regular statement required within ten days after the requisition is mailed entails a penalty upon the bank or banking house of $25 a day (258). If the directors of any "bank, branch bank, or trust company" fail to make an inspection quarterly and certify their findings to the auditor, the corporation suffers a penalty of from $100 to $500 for each failure (1908, chap. 110). The officer or employee of "any bank" or "establishment conducting the business of receiving deposits," who knowing the establishment to be insolvent receives deposits without informing the depositor of its condition is punished by not more than five years' imprisonment (1169).

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MISSOURI.

The digest of the banking statutes of Missouri is based on the compilation of the banking laws published in 1908 by the secretary of state of Missouri. In the Revised Statutes of 1899 there were, in Chapter XII, three articles pertinent to our subject: Article VIII, "Banks of deposit and discount;" Article XII, "Trust companies;" and Article XIII, "Savings and safe-deposit institutions." The laws of 1907 enacted complete new articles to supersede those three, and added Article XX, "State banking department." These new laws went into effect January 15, 1909. It is a provision of the constitution of Missouri that acts authorizing or creating corporations with banking powers, except banks of deposit or discount, and amendments, be submitted to popular vote (constitution, Art. XII, sec. 26).

The provisions of Article XX are in the main applicable to all three classes. They have been inserted once under "Banks," and are merely mentioned under "Savings banks" and "Trust companies." A few of the provisions of Article VIII which are applicable only to unincorporated bankers are inserted; in many respects private bankers are made subject to the same rules as banks of deposit and discount (VIII, 29). The references are by article and section, the Roman figure representing the article; the Arabic, the section in that article. The statutes have been examined through those of 1909.

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BANKS.

I.—Terms of Incorporation.

The title of the article on commercial banks is "Banks of deposit and discount." There is no provision forbidding such banks to accept savings deposits, nor does it seem that such a rule is to be implied from Chapter XIII, section 9, which forbids savings banks to transact a business of banking, whether of issue, deposit, or discount, especially since banks may pay interest on deposits (VIII, 4).

The cash capital of every bank must be not less than $10,000, nor more than $5,000,000, and for banks situated in cities of 150,000 or more, the cash capital must be not less than $100,000 (VIII, 6). The shares must be not less than $100 each (VIII, 7). One-half must be paid up in lawful money before business is begun (VIII, 10). The remaining half must be paid up in cash within a year (VIII, 11). The bank commissioner makes a preliminary examination before granting the certificate of incorporation (VIII, 5).

Dividends may be declared semiannually, if they have been earned, but there must be no dividend if the capital has been impaired so as not to be worth in good resources the full amount paid in. When the capital stock is impaired to the extent of 25 per cent, the bank must cease doing business, unless the capital is made good within sixty days or reduced equal to the impairment (VIII, 16).

Before declaring a dividend, every banking institution must set apart 10 per cent of the net profits for the dividend period for surplus fund, until it amounts to 20 per cent of the capital stock (VIII, 21). A further provision for a larger permanent surplus, important in determining if

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there are excessive loans, is discussed under V, Loans (VIII, 20).

Private bankers, that is, those not incorporated, who receive deposits, sell exchange, etc., must have a paid-up capital of at least $10,000, and if carrying on business in a city of 150,000 or more, a paid-up capital of at least $100,000 (VIII, 27). Private bankers must set apart 20 per cent of each year's net profits, until they have a surplus of 20 per cent of their capital (VIII, 28).

II.—Liabilities and Duties of Stockholders and Directors.

It is a constitutional provision that dues from private corporations may be secured by such means as may be prescribed by law, but that in no case is a stockholder to be individually liable in any amount above the amount of stock owned (constitution, Art. XII, sec. 9). If any shareholder in a bank transfers his shares before they are fully paid, he, as well as his transferee, is liable for a year for whatever is still due (VIII, 7).

The board of directors of every bank consists of from three to twenty-one shareholders, each a resident of the State and holder of at least two shares. No shareholder is eligible if the bank holds a judgment against him. The board must meet once a month to pass upon the business since the last meeting (VIII, 9). Any officer or director who assents to declaring a dividend while the capital stock is impaired, is personally liable to the creditors of the corporation for loss occurring because of the dividend (VIII, 16). Any director or officer of a bank or banking institution, organized under any law of Missouri, who receives deposits or creates debts after he has knowledge of the institution's insolvency, is individually responsible for the obligations so contracted (VIII, 23). It is a constitutional provision that the

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officer or director who participates in the reception of deposits of this sort, or the creation of debts, is guilty of a crime, and is individually responsible (constitution, Art. XII, sec. 27).

III.—Supervision.

There is a state bank department under the control of a bank commissioner (XX, 2). The commissioner holds office for four years. He and his deputy must have had at least three years' practical experience in banking business, or have served three years in some state banking department. No one interested in a bank or trust company is eligible (XX, 3). The commissioner's salary is $3,500 a year with necessary expenses (XX, 5). The commissioner and his subordinates must keep secret information obtained in the course of examinations, except so far as their public duty may require it to be divulged (XX, 8). The commissioner and his employees must not accept payment other than the salary fixed by law (XX, 19).

If the commissioner has reason to believe that the capital of any corporation subject to his control is impaired, he requires the deficiency to be made good. If, from an examination or otherwise, it appears that any bank, savings bank, or trust company receiving deposits is conducting its business in an unsafe or unauthorized manner, the commissioner directs the illegal and unsafe practices to be discontinued. If any corporation refuses to obey his orders, or if it appears to the commissioner that it is unsafe or inexpedient for the corporation to continue business, or that losses are threatened, etc., the commissioner requires the attorney-general to institute whatever proceedings the case may require, such as removal of officers or other remedy. If, from an examination, it is discovered that a bank, savings bank, or trust company is

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insolvent, or that its continuance in business is dangerous, and if the official who made the examination recommends that the bank be closed, then the commissioner may immediately close the corporation and take charge of its property. He examines its affairs thoroughly to ascertain its condition, and if he finds it insolvent, requires the attorney-general to institute proceedings for a receiver. The commissioner may appoint a special agent to act as receiver for a period not longer than sixty days. A bank, savings bank, or trust company may voluntarily put itself in the control of the commissioner (XX, 10). All banking corporations are forbidden to make a general assignment, and are required to put themselves in the hands of the bank commissioner instead, if they are threatened with insolvency (XX, 13). If any of these corporations refuses to be examined, receivership proceedings may be instituted (XX, 14). If the corporation's own stock, acquired by it under provisions discussed later, is not disposed of within six months, receivership proceedings may be instituted (XX, 15).

Private bankers are subject, so far as possible, to the provisions in the above paragraph. Moreover, if they loan on account of the personal security of one of the owners of the private bank in excess of 10 per cent of its capital and surplus, the commissioner may have them put into the hands of a receiver (XX, 16).

If the commissioner or his subordinate report fraudulently, any one injured by the fraud may sue on the official's bond. Neither the commissioner nor any subordinate may be receiver of a corporation he has examined (XX, 18).

REPORTS.

In the article applicable only to banks, there is the requirement that each bank must furnish, whenever so

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required by the commissioner, a statement of its actual condition at the close of business on a past day designated by him (VIII, 12), in a form prescribed by the statute, and including the following items: Resources—Loans and discounts, undoubtedly good on personal or collateral; loans, real estate; overdrafts; bonds and stocks; real estate (banking house); other real estate; furniture and fixtures; due from other banks and bankers, subject to check; cash items; currency; specie; other resources. Liabilities—Capital stock paid in; surplus fund; undivided profits, net; due to banks and bankers, subject to check; individual deposits, subject to check; time certificates of deposit; demand certificates of deposit; cashiers' checks; bills payable and rediscounts; other liabilities (VIII, 13). This statement is published in a local newspaper (VIII, 14). The bank commissioner gives no notice of the day on which he will call for a statement. He makes calls for statements twice a year, and oftener if he thinks necessary (VIII, 15). Private bankers are, for purpose of reports and in every other case where the article on the state banking department is applicable, made subject to the same rules that apply to banks (VIII, 29).

In the article on the state banking department, it is provided that in addition to all other examinations or reports, every bank, savings bank, and trust company receiving deposits must have an examination made by at least three shareholders into all the affairs of the company; on this examination they base a report including various particular items, and such others as the bank commissioner may require, which report, within ten days after the completion of the examination must be filed in the institution and with the commissioner. He sends out a call at least every year with blanks for this report (XX, 17).

Whenever a bank, savings bank, or trust company has been placed in the hands of a receiver, the bank com-

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missioner, if he thinks it necessary, may make special examinations, the result of which he reports to the court which appointed the receiver (XX, 12). Whatever reports receivers make to their courts they file duplicates of with the commissioner (XX, 11). The result of all examinations during the previous year is embodied in a report made by the commissioner to the legislature (XX, 9).

EXAMINATIONS.

A preliminary examination is made by the commissioner before he grants a certificate of incorporation to any bank or trust company (VIII, 5). At least once a year the commissioner causes an examination to be made of every bank and trust company receiving deposits (XX, 9). Special occasions, when the commissioner makes examinations, were discussed above; he does so when he has taken possession of the assets of a corporation prior to proceedings for a receivership (XX, 10) and also when a corporation has been declared insolvent and placed in the hands of a receiver, and the interests of the depositors and creditors seem to require an examination (XX, 12). Also, as above explained, in addition to all other examinations required, every bank, savings bank, and trust company receiving deposits must make at least yearly, by a committee of at least three shareholders, a thorough examination, on which they base a report in the form prescribed by the commissioner (XX, 17).

IV.—Reserve Requirements.

Banks must keep an account of cash on hand and cash due from other banks equal to at least 15 per cent of demand deposits. Whenever the reserve falls below 15 per cent no new loans may be made (VIII, 8).

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V.—Discount and Loan Restrictions.

No bank may loan to any person or company an amount exceeding 25 per cent of its capital stock. For this purpose the bank may consider as capital stock a permanent surplus, the setting apart of which has been certified by the commissioner and which can not be diverted without due notice to the commissioner. This surplus must be equal to or in excess of 50 per cent of the capital. The discount of certain commercial paper well secured is not considered as money borrowed, however (VIII, 20).

No director or officer of a bank may borrow in excess of 10 per cent of the capital and surplus without the consent of a majority of the directors, exclusive of the borrower (VIII, 9).

No bank, savings bank, or trust company receiving deposits may loan on the security of its own shares unless necessary to prevent loss upon a previous debt, in which case the stock must be gotten rid of in six months (XX, 15).

VI.—Investments.

It is a constitutional provision that no corporation may hold real estate for a longer period than six years, except such as is necessary and proper for carrying on its legitimate business (constitution, Art. XII, sec. 7).

Banks are prohibited from employing their funds in commerce by buying and selling goods, etc., but they are allowed to sell all kinds of property which may come into their possession as collateral security for loans, or in the ordinary collection of debts (VIII, 19).

Banks, savings banks, and trust companies are forbidden to purchase shares of their own stock unless the purchase is necessary to prevent loss on a debt previously contracted, in which case the stock must be sold within six months (XX, 15).

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VII.—Overdrafts.

These seem surely allowed in the case of banks, for they appear as an item in the resources in bank statements (VIII, 13). Moreover, it seems they must be generally permitted in the case of banks, savings banks, and trust companies, for in the provision for annual examinations to be made by a committee, it is provided that they examine into overdrafts (XX, 17).

VIII.—Branches.

Branches are forbidden (VIII, 4).

X.—Unauthorized Banking.

No one may advertise by a sign or in a newspaper or on letter heads, etc., using the words "bank," "banker," or "banking" unless doing business under United States or Missouri law (Revised Laws of 1899, sec. 1947)

XI.—Penalties.

If the bank commissioner or his subordinate discloses information except in the course of duty, he is guilty of a misdemeanor, punishable by forfeiture of office and a fine of from $100 to $1,000 (XX, 8). If the commissioner warns banks of an approaching report, he is guilty of a misdemeanor, punishable by loss of office and a fine of not less than $500 (VIII, 15). If the commissioner or a subordinate is guilty of breach or neglect of duty for which no other penalty is provided, he commits a felony, punishable by imprisonment in the penitentiary for from two to five years, or fine of from $100 to $1,000, or imprisonment in a county or city jail for from one month to twelve months, or both fine and imprisonment (XX, 20).

Officers of banks who refuse to make the semiannual statement required by the commissioner, or make a false

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statement, are guilty of a misdemeanor, punishable by fine of from $100 to $500, or by imprisonment of from one to twelve months, or by both (VIII, 15). It is also provided in the article on commercial banks that private bankers who refuse to render reports or who make false reports or who violate other provisions of the article are guilty of a misdemeanor, punishable by a fine of from $500 to $5,000, or imprisonment of from one to twelve months, or both (VIII, 29).

Any bank, savings bank, or trust company that fails to report to the commissioner, within thirty days of the notification, the result of the examination by the committee of three stockholders, forfeits $100 per day during the delay (XX, 17).

The officer of any banking institution, including trust companies, who receives deposits or creates debts with knowledge of the institution's insolvency, commits a felony, punishable as theft of money to the amount of the obligation created would be (Revised Laws, 1899, sec. 1945). There are other penal provisions in the Revised Laws for punishment for false entries in books, altering or forging instruments, etc. (Revised Laws, 1899, sec. 2000 *et seq.*).

SAVINGS BANKS.

I.—Terms of Incorporation.

Article XIII, "Savings and safe deposit institutions," apparently contemplates organizations with capital stock (XIII, 2). It contemplates a safe deposit business to be done in connection with savings banking (XIII, 7), but savings banks are not allowed to transact a banking business of deposit or discount (XIII, 9).

The capital of savings and safe deposit institutions must be not less than $10,000 in cities of 50,000 or under, not less than $50,000 in cities of 50,000 to 150,000, and not less

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than $100,000 in cities of 150,000 and over. The capital must be paid in in lawful money and is regarded as a guaranty fund for the security of depositors (XIII, 4). The capital stock must be not more than $5,000,000 (XIII, 15). Shares are of $100 each, apparently (XIII, 2).

Whenever interest at not less than 3 per cent per year has been paid out of net profits for the current six months on all savings or trust funds entitled to interest, the directors may declare out of remaining net earnings a dividend on the stock not greater than 6 per cent a year. No dividend, however, may be declared until at least one-tenth of the net profits for the preceding six months has been carried to a guaranty fund; this continues until the fund amounts to the capital stock. The guaranty fund must be invested according to the provisions given later under VI (XIII, 17). If for the preceding six months the net profits are not sufficient to pay a 3 per cent dividend for those six months, then whatever excess of net profits is earned in the succeeding six months over interest to depositors and contributions to guaranty fund is applied to arrears of dividends (XIII, 18). When the guaranty fund amounts to a sum equal to the capital stock, and interest has been paid and dividends on capital stock to date, then, if there are still net profits undisposed of, the directors set aside a sum not exceeding one-fourth of 1 per cent of the total deposits on that day, until the sums so set aside, known as the indemnity fund, amount to 10 per cent of the whole deposits. This indemnity fund is held as an added security against loss (XIII, 19). When the guaranty fund amounts to as much as the capital stock, and interest and dividends have been paid to date, and the indemnity fund has risen to 10 per cent of the whole deposits, then, if the net profits still amount to 1 per cent of the deposits that have remained in the bank for at least one year preceding, these profits are at the end of every

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three years divided among the depositors whose deposits have remained in the bank at least one year preceding, the division being in proportion to the amount of interest which has been paid on the deposits during the three years next preceding (XIII, 20). In no case may interest or dividend be paid until the directors have examined the condition of the savings bank and have found that the interest and dividend have been actually earned (XIII, 21).

II.—Liabilities and Duties of Stockholders and Directors.

The provision of Article XII, section 9, of the constitution, that no stockholder in a private corporation is individually liable above the amount of stock held, here obtains.

Every savings bank has from five to thirteen directors who must be stockholders, and a majority of them must be citizens of the State (XIII, 5). A director is not disqualified by reason of his being director or officer of another banking or savings institution (XIII, 6). Neglect of duties, or borrowing the funds of the savings bank, is ground for loss of office (XIII, 10). Meetings must be held once a month (XIII, 11). The directors must examine assets before declaring a dividend or interest (XIII, 21). Directors must not receive payment for their services unless they are such as require regular and faithful attendance, in which case the majority, exclusive of the director who is being paid, vote the compensation (XIII, 10 and 24). No one acting for a savings bank may take a fee for a loan made by the savings bank other than appears on the face of the contract of loan (XIII, 8). The constitution makes it a crime for an officer or director of any banking institution to receive deposits when he knows the bank to be insolvent (constitution, Art. XII, sec. 27)

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III.—Supervision.

For most of the provisions for supervision of savings banks, see III, under Banks. It is especially provided in the article on savings banks, besides, that when it appears to the bank commissioner from his examination or report that a savings bank is conducting its business in an unsafe or unauthorized way, he must direct a discontinuance of the practices, and if the savings bank refuses to report or to comply with his orders, or if it appears to him that the corporation should stop business, that it is in a dangerous condition, or that directors or officers have been guilty of misconduct, he must institute, through the attorney-general, whatever proceedings the case requires. These proceedings may be for orders restraining paying out undue amounts of funds, or for the removal of officers or for the appointment of receivers. If the order is one restraining the savings bank from paying out funds, the commissioner may take temporary possession of the property of the savings bank (XIII, 31).

Reports.

Every savings bank reports annually to the bank commissioner its condition on the 1st of September. The reports state the amount loaned on bond and mortgage, with a list of such loans; the values of bond investments, with particulars; the amount loaned on pledge of deposits, with statement of collateral; the cash on hand and on deposit, with names of depositaries; the amount of all assets, and such other information as the commissioner may require (XIII, 26). Also all liabilities on the morning of September 1; amounts due depositors, including dividends, and any other claims chargeable against the assets. The report states also the amount of deposits made during the year; amount drawn out; amount of

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interest received and earned; interest paid depositors; number of accounts opened and reopened; the number closed; the number open at the end of the year; and whatever other information the commissioner may require (XIII, 27). This report is based on an examination which must be made by not less than three directors (XIII, 28). In addition to all other reports there is the annual report after examination by a committee of three stockholders (Banks, III).

The bank commissioner reports annually to the legislature a statement of the condition of every savings bank that has reported to him during the preceding two years, with a list of new savings banks (XIII, 29). The results of all examinations made within the past year are embodied in the annual report (XX, 9).

EXAMINATIONS.

Every two years, or oftener if necessary, the commissioner examines personally or by an agent every savings bank in the State (XIII, 30 and XX, 9). The directors make an examination before declaring any interest or dividend (XIII, 21). They make a thorough examination upon which the annual report is based (XIII, 28). There is also the examination by a committee of three shareholders (see Banks, III).

IV.—Reserve Requirements.

The restrictions on investments include a provision in the nature of a reserve requirement; 15 per cent of total assets must be kept as a cash fund on hand or on deposit in Missouri banks or trust companies, or national banks in Missouri (XIII, 7).

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V.—Discount, Loan, and Deposit Restrictions.

Savings banks may not loan money upon or discount notes, bills of exchange, or other personal security (XIII, 9). Loans may be made to depositors not exceeding 50 per cent of the amount on deposit from the borrower, in which case the deposit and book of the depositor are collateral (XIII, 9).

No director or officer of the savings bank may borrow the funds of the bank or be indorser for moneys loaned by the bank (XIII, 10).

(For loans on security of the savings bank's own stock, see this heading under Banks.)

Savings banks with a capital of $10,000 may receive deposits up to $200,000; those with a capital of $25,000 may receive deposits up to $500,000; and those with a capital of $50,000 may receive deposits up to $1,000,000. The statute provides that nothing in this article shall be so construed as to prevent the issuing of certificates of deposit payable on demand (XIII, 12). Pass books must be called in every three years and verified. The aggregate amount of deposits received from one individual or corporation must not exceed $4,000, including dividends (XIII, 14). In allowing interest to depositors, they may be classified according to the character, amount, and duration of their dealings with the savings bank (XIII, 16).

VI.—Investments.

Savings banks may hold real estate as follows: First, a plot and building for the transaction of the bank's business, from part of which rent may be derived. The cost must not exceed $100,000 except in cities of over 300,000, where the cost must not exceed $250,000. Second, such real estate as is purchased at sales on foreclosure of mortgages owned by the bank, or upon judgments ren-

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dered for debts due it, or such as is purchased to secure old debts. All the real estate under second must be sold within five years (XIII, 8). See the constitutional prohibition upon ownership by any private corporation of any real estate except that necessary for its business, for a longer period than six years (constitution, Art. XII, sec. 7). Savings banks must not deal in merchandise, etc. (XIII, 9).

(For the provisions on purchase of its own stock by a savings bank, see VI under Banks.)

The funds of savings banks may be invested as follows: First, in United States securities; second, in Missouri bonds; third, in bonds of any State that has not defaulted in payment on its bonds for five years; fourth, in bonds of any Missouri municipality that has not defaulted within five years, provided the bonded debt does not exceed 5 per cent; fifth, in the bonds of any municipality of more than 20,000 inhabitants in certain enumerated States, if the entire bonded debt of the city or county in question does not exceed 5 per cent of the assessed value of its property, and if the municipality, "or the State in which it is situated, has not defaulted in the payment of any part of either principal or interest thereof" within five years; no savings bank may invest more than 25 per cent of its assets in bonds of municipalities outside of Missouri, nor invest more than 3 per cent in the bonds of any one of those municipalities, nor invest in more than 10 per cent of all the bonds issued by any of those municipalities, nor invest in the bonds of any of those municipalities issued to aid in the construction of a railroad; sixth, in the first mortgage bonds of any steam railway the income of which is sufficient to pay all operating expenses and fixed charges, if the railway is located in certain specified States, and if it has paid interest on the bonds for three years; the first mortgage bonds of several

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specified railways are included; seventh, in bonds or notes secured by first mortgages of unincumbered real estate worth twice the loan, but if the loan is on unimproved and unproductive real estate it must not be more than 40 per cent of the value of the land—not more than 60 per cent of the funds of the savings bank may be thus loaned, and a committee of investigation must report on the value of the land; eighth, in real estate subject to the limitations given above. Current expenses may be met by pledging or selling securities. Fifteen per cent of the whole amount of assets must be kept as an available cash fund for current expenses. This may be kept on hand or on demand deposit in Missouri banks or national banks in Missouri or in Missouri trust companies. The deposits in any one bank or trust company, however, must not exceed 20 per cent of the total deposits, capital, and surplus of the depositor bank (XIII, 7).

XI.—Penalties.

The special savings bank penalties include loss of office, in the case of the director who borrows of the savings bank, or who fails to attend meetings or to perform his duties for three successive months without excuse from the board (XIII, 10), and the penalty of $100 per day payable by the savings bank which withholds a report (XIII, 28). Savings bank officers are within the felony provision for receiving deposits while insolvent (Revised Laws, 1899, sec. 1945).

TRUST COMPANIES.

I.—Terms of Incorporation.

The amount of capital stock must be not less than $100,000, actually subscribed, and the amount authorized must be not more than $10,000,000 (XII, 7). Before

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business is begun, one-fourth of the authorized capital must be actually subscribed, and one-half the subscribed capital must have been paid in in lawful money (XII, 2). The bank commissioner makes a preliminary examination before business is begun (VIII, 5).

Trust companies, whenever a dividend is paid to stockholders, must set aside 10 per cent of the net earnings of the last dividend period for surplus until the surplus amounts to 20 per cent of the capital (XII, 5*b*).

Dividends may be declared every six months, or oftener, but they must not be declared while the corporation is insolvent, nor when the declaration itself will render the corporation insolvent (XII, 10).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders' liability is limited by the constitution for all private corporations to the amount of stock held (constitution, Art. XII, sec. 9).

There must be not less than five, nor more than twenty-five, directors, who must be stockholders in the corporation, and a majority of them citizens of Missouri (XII, 7). They must meet at least monthly to pass upon the business of the company since the last meeting. The records at that meeting must show aggregate debts at the time and the liability of each director and officer to the company (XII, 9). If the directors knowingly declare a dividend while the corporation is insolvent, they are liable for the debts of the corporation then existing or thereafter contracted, unless they record their objection (XII, 10). See also the constitutional provision making the reception of deposits under such circumstances a crime (constitution, Art. XII, sec. 27).

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III.—Supervision.

See the general provisions for supervision under III in Banks. If the reserve of a trust company falls below the 15 per cent required, then the secretary of state may notify the trust company to make the reserve good; if it fails to do so within thirty days, then the commissioner may direct the attorney-general to institute whatever proceedings the case requires (XII, 5*a*). A deposit in certain securities to the amount of $200,000, qualifies the trust company to act as guardian, etc. (XII, 18).

REPORTS.

Whenever required by the bank commissioner, within fifteen days of his call, every trust company must furnish a statement giving such particulars as the commissioner prescribes of its condition at close of business on a designated day prior to the call. This statement must be published in a local newspaper (XII, 11). There is also the report of the annual examination by a committee of three shareholders (see Banks, III).

The commissioner embodies in his report to the legislature, as in the case of banks, the results of his trust-company examinations (XX, 9).

EXAMINATIONS.

A preliminary examination is made before any trust company begins business to make sure that the required capital has been subscribed and paid in, etc. (VIII, 5). Regular examinations of every trust company receiving deposits are made by the commissioner or a subordinate at least once a year, and oftener if necessary (XX, 9). There is also the examination by a committee of three shareholders (see Banks, III).

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IV.—Reserve Requirements.

Every trust company must have in cash on hand and due from other banks and trust companies an amount equal to 15 per cent of its demand deposits. If the reserve falls below the 15 per cent no new loans or discounts may be made (XII, 5*a* and 8).

V.—Discount and Loan Restrictions.

No director or officer of a trust company receiving deposits may borrow in excess of 10 per cent of the capital and surplus without the consent of a majority of the directors, exclusive of the borrower (XII, 9).

(For provisions dealing with loans by a trust company on security of its own stock, see V, under Banks.)

VI.—Investments.

There is, as before, the constitutional provision that no corporation may hold real estate for a longer period than six years, except such as is necessary and proper for carrying on its legitimate business (constitution, Art. XII, sec. 7). Trust companies may own only such real estate as is necessary for the transaction of their business and such as they may acquire in the enforcement and collection of debts due them (XII, 10). The directors of trust companies may invest "the moneys placed in their charge" in loans secured by real estate or other sufficient collateral, in United States or Missouri bonds, or in bonds of Missouri municipalities (XII, 10).

(For provisions dealing with purchase by a trust company of its own stock, see VI, under Banks.)

VII.—Overdrafts.

These seem to be permitted in the case of trust companies, for it is provided that when the committee of at

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least three shareholders examines a bank, savings bank, or trust company it takes account, among other things, of overdrafts (XX, 17).

XI.—Penalties.

The only particular penalty in the article on trust companies is that for refusal to report or for making a false report; this is a misdemeanor on the part of an officer or director which entails a fine of not more than $500, imprisonment of from one to twelve months, or both (XII, 11).

(For receipt of deposits while insolvent, see Banks, XI.)

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MONTANA.

Except for a few penal provisions, and except for minor changes effected by various chapters of the session laws of 1909, all the banking statutes of Montana are in a title at page 1137 of the Revised Codes of 1907, entitled "Banks and banking corporations." This title is divided into five chapters: I. Banks of discount and deposit; II. Trust deposit and security companies; III. Savings banks; IV. Endowment and investment companies; V. Foreign banking corporations; VI. Regulation of banking corporations. Of these, Chapter IV is not treated in the digest, and Chapter V only very briefly. The provisions of Chapter I are generally digested under the heading "Banks," those of Chapter III under the heading "Savings banks," and those of Chapter II under the heading "Trust companies." Even this scheme can not be consistently followed, however, because despite the classification in the code a number of sections show by their language that the statutes which form them were not designed to apply strictly to the sort of corporation designated at the head of the chapter; indeed the classification in the code, compared with the language of the sections, shows many variances. Especially is the word "bank" frequently used in such a way as to suggest that it is meant to include all three sorts of corporations: see 3993, where after speaking of "any bank, banking institution, or trust company" the section refers to "such bank;" see also 3996. It is particularly difficult

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to tell, too, to what classes of corporations the provisions of Chapter VI apply, composed as it is of various statutes passed during different sessions, framed in varying terms. Where, as is in several places the case, the code includes contradictory sections, both are given, with a statement showing which is based on more recent enactment. The question in each case, which section is in force, should be studied with reference to 3553 *et seq.*, where there are complicated rules for settling conflicts in the codes, and with reference to the original enactments found in the session laws. The language of each section has been followed in the digest so as to indicate its application as clearly as may be. References, where they are simply numbers in parenthesis, are to sections in the Revised Codes of 1907.

BANKS.

I.—Terms of Incorporation.

The capital stock of a bank of discount and deposit must be not less than $20,000, and must be paid into the treasury of the bank in cash before business may be begun (3909). Dividends may be declared by any "banking corporation" only from net earnings (3916). Before declaring a dividend a "banking corporation, trust deposit and security company or savings bank" must set aside 10 per cent of the net earnings available for dividends, as a surplus, until the fund amounts to 20 per cent of the capital of the corporation (1909, chap. 112). They may be declared semiannually on the first Monday of January and July (3997).

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II.—Liabilities and Duties of Stockholders and Directors.

"The officers and stockholders of every banking corporation formed under the provisions of this title (see introductory paragraph under Montana for scope of the title and its chapters) are individually liable for all debts contracted during the term of their being officers or stockholders of such corporation equally and ratably to the extent of their respective shares of stock in any such corporation, except that when any stockholder shall sell and transfer his stock such liability shall cease at the expiration of six months from and after the date of such sale and transfer" (3915). There is another provision, based on a later act, making the stockholders "of every corporation formed under this chapter or which may avail itself of its provisions" individually liable "for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein at the par value thereof in addition to the amount invested in such shares" (4012). Note that the words "this chapter," have been carried over from the language of the session laws without readjustment to the code. The state examiner, F. H. Ray, considers 4012 inoperative because "this chapter" properly refers to chapter 190 of the laws of 1907, which did not provide for the formation of corporations—a "corporation formed under this chapter" is, in Mr. Ray's opinion, an impossibility therefore. Attention is called, however, to the continuation of the quotation, above.

Every bank of discount and deposit must have not more than thirteen directors, who must be citizens of the United States, and at least three of them residents of Montana. Each director must own at least ten shares of capital stock (3912). After providing for reports by banks, savings banks, and trust companies, the statutes go on to provide

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that if "any such bank" delays a report one month beyond the time it is due or willfully violates any provisions of the act relative to reports, the directors are personally liable for all the debts of the corporation contracted previous to and during the period of the neglect (4000).

III.—Supervision.

The state examiner, an official appointed for terms of four years, and charged with the duty of examining various public accounts, etc. (see 208 *et seq.*), has supervisory powers over banks, savings banks, and trust companies. As state bank examiner he approves of increases in capital stock of "any corporation organized under the provisions of this title" (3918 and 4009), or, in the words of another section, of "any banking association, trust, deposit and security corporation, or savings bank organized under the laws of this State" (4005 and 4009). When any "bank organized under the provisions of this title" neglects to comply with an order within sixty days, or violates any of the provisions of the title, he makes demand upon the proper officer to begin an action to annul the corporation's existence (3919 and 4009). He passes upon voluntary dissolutions of banks, savings banks, or trust companies (4003); he approves of reductions of capital stock (4006); he approves of reserve depositaries (4010); and he notifies banks ("each bank organized under the provisions of this title") whose reserves have fallen below the requirements, to make good the deficiency (3921). All information in reports to the state examiner is confidential and used only in furtherance of his official duties (3999). Whenever the examiner, after a full examination of the affairs of a bank, savings bank, or trust company, finds evidences of impairment or insolvency, he submits a statement to the governor and attorney-general; and if they are satisfied that the impairment or insolvency exists,

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the attorney-general gives notice to have it made good, and upon failure sues for a receiver, pending whose appointment the governor may direct the state examiner to take charge of the business of the corporation (4004).

REPORTS.

Every bank, savings bank, and trust company must make to the state examiner not less than four reports a year at his call, not less than two months to intervene between calls, according to the form prescribed by him, and containing a full abstract of the accounts of the bank, its resources and liabilities, etc. The statement must be transmitted to the examiner within five days after receipt of his request and must be published in condensed form in a local newspaper. The examiner may call for special reports when in his judgment they are necessary (3996). Moreover, "every such bank" must report to the state examiner within ten days after declaring any dividend showing the amount of the dividend and the amount of net earnings in excess of it (3998). "Every corporation doing a banking business in this State" must, besides keeping the stockholders' book generally required, post in its office the names of its directors and the number and value of shares held by each (3917). For reports required from "every bank or banking association organized under the authority of this State," for purposes of taxation, see 2503.

EXAMINATIONS.

Proceedings for a receiver are only begun when evidences of impairment or insolvency are found by the state examiner "after a full and careful examination of the affairs" of a bank, savings bank, or trust company (4004). The state examiner makes a thorough examination of the affairs of a bank, savings bank, or trust company before he approves of its voluntary dissolution (4003). It is the duty of the

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state examiner once a year or oftener, without previous notice, to examine each bank, banking corporation, and savings bank (the language of this statute does not include trust companies, although it does investment and loan companies) and examine their affairs, verify the value and amount of their securities and assets, and inquire into violations of law (209).

IV.—Reserve Requirements.

"Each bank organized under the provisions of this title" must keep in available funds at least 20 per cent of all immediate liabilities, of which reserve one-half must consist of balances due from solvent banks and one-half of cash. When the reserve falls below the requirement, the corporation must not make any loans or discounts, except by buying or discounting sight exchange, nor make dividends (3921). There is another section based on more recent legislation than the one just cited, which provides that "every bank" must keep on hand at least 15 per cent of its total deposits, of which a portion, to be determined by the directors, may be deposited in banks in cities of a certain size approved as reserve banks by the examiner, and that reserve banks must keep at least 25 per cent of total deposits in lawful money or deposited in other reserve banks (4010). The state examiner considers the second of the above two sections as the operative one.

V.—Discount and Loan Restrictions.

Among powers of banks of discount and deposit is that of "loaning money on real and personal security" (3911).

The total liability to "any bank incorporated under the provisions of this title" of any person, company, or firm for money borrowed, including in company or firm liabilities those of the members, must never exceed 15 per cent of the paid-in capital and permanent surplus of the bank,

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but the discount of bills of exchange drawn against existing values and of commercial paper owned by the persons negotiating it is not considered money borrowed (3920). There is a section, based on a later enactment, providing that the total liabilities of any person, firm, or corporation to "any bank" for money borrowed, including in firm, but not corporation, liabilities, those of the members, must never exceed 20 per cent of capital and surplus; this section excludes discount of bills and commercial paper as above and loans on warehouse receipts and bills of lading, from the classification of money borrowed (4011).

It is unlawful for "any bank, banking institution, or trust company" to loan to a managing officer without taking ample security; and when such a loan or one made to a director exceeds 10 per cent of the capital of the corporation, it must be first approved by a majority of the directors (3993).

VI.—Investments.

Among powers of banks of discount and deposit are those of buying and selling the bonds or stock of Montana or of any other State or Territory, and the bonds of Montana municipalities (3911).

Banks of discount and deposit may hold such real estate as is necessary for the proper transaction of business; such as is mortgaged to secure previous loans; such as is conveyed to the corporation in satisfaction of previous debts; and such as it purchases at judicial sale under liens held by it (3913).

No bank of discount and deposit must hold any portion of its own capital, or of the capital of any other incorporated company, unless the purchase is necessary to prevent loss on a previous debt contracted on security which was thought adequate at the time; and stock so purchased must

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not be held longer than six months, if it can be sold for what it cost or at par (3910).

X.—Unauthorized Banking.

The chapter on foreign banking corporations forbids them to do any banking business in Montana unless they comply with various requirements of capitalization, reserves, reports, limitations on liabilities, examinations, etc. (3976 *et seq.*).

It is unlawful to use the words "trust" or "trust company," "saving," or "savings bank" in the title of any business unless the business is organized under the Montana laws relating to trust, deposit and security, and savings bank corporations. Violations of this provision, whether individually or as one interested in a firm or corporation, is a misdemeanor, punishable by fine of from $300 to $1,000, imprisonment for from sixty days to a year, or both (3992). This provision is inserted under Banks because it appears in Chap. VI, "Regulation of Banks;" it seems to fall more properly under Savings banks and under Trust companies.

XI.—Penalties.

Whenever any "bank organized under the provisions of this title" fails to make good a depleted reserve within thirty days after notice, it is guilty of a misdemeanor punishable by a fine of from $100 to $500 (3921). If "any bank, banking institution, or trust company" loans to a managing officer without ample security, or loans to a managing officer or a director in an amount exceeding 10 per cent of the capital stock, without the approval of a majority of the directors, the bank or any managing officer of it violating the rule is liable to a fine of $1,000, and in addition the officer may be imprisoned for from one to ten years (3993 and 3994). After providing for reports from

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banks, savings banks, and trust companies, the statutes proceed to provide that "if any such bank" fails to report it suffers a penalty of $20 a day (4000). Every officer or other person who wilfully makes a false statement or entry, with intent to deceive an examiner, reports falsely, etc., is guilty of a felony, punishable by imprisonment for from one to ten years (4001).

The following three sections, all inserted in the code, though 8715 is the latest enactment, seem inconsistent in part: Banks, savings banks, and trust companies are forbidden to receive deposits or transact other business after they are insolvent, except that they may act as trustee for depositors, etc., keeping deposits thus made after the insolvency separate from the general assets of the bank; any officer, director, etc., knowingly receiving these trust deposits except in the manner stated in the statute is punishable by a fine not to exceed $10,000, imprisonment not to exceed five years, or both (4007). Any officer, agent, or clerk of a bank, savings bank, or trust company who receives deposits except in the separate trust manner just explained, or who makes a false statement, etc., with intent to deceive an examiner (this portion of 4008 seems in conflict with the later passed statute, 4001, above), is subject to imprisonment for a term not exceeding five years (4008). No bank, banking house, etc., or party engaged in banking, loan, or deposit business may accept a deposit if the bank is unsafe and insolvent; any officer, director, etc., knowingly receiving such deposit is guilty of a felony, punishable by imprisonment for from one to twenty years (8715).

Whenever any provision of the banking laws as they existed in 1907 is violated, for which no particular penalty is provided, the violation is a misdemeanor (4014).

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SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks must have a capital, fully paid in cash before deposits are received, of not less than $100,000; but a savings bank may organize on a basis not exceeding $500,000 capital stock, of which at least $100,000 must be paid in before deposits are received and the balance within five years from incorporation, as called for by the directors, in amounts not exceeding 25 per cent of the unpaid capital in a year (3946).

The directors "of each bank" (following a provision applicable to banks, savings banks, and trust companies) may declare dividends semiannually on the first Monday of January and July out of net profits (3997). Every corporation organized under the savings-bank chapter was required, under the provisions of the Code, to set aside annually at least 5 per cent of net profits as a contingent fund until "such surplus" amounted to 20 per cent of capital (3956). This has been changed, apparently, by a late statute digested under Banks, I, to require savings banks to carry to surplus, before each dividend is declared, 10 per cent of the amount available for dividends, until the surplus equals 20 per cent of capital (1909, chap. 112).

II.—Liabilities and Duties of Stockholders and Directors.

The officers and stockholders of every savings bank "are individually liable for all debts contracted during the term of their being officers or stockholders of such corporation equally and ratably to the extent of their respective shares of the stock in any such corporation, except that when any stockholder sells and transfers stock such liability ceases at the expiration of six months from and after the date of

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such sale and transfer" (3953; see also 3915). There is in the code also the inconsistent provision in 4012, stated under Banks.

There must be not more than thirteen directors, who must be citizens of the United States, and at least three-fourths of them residents of Montana. Each director must own at least 10 shares of stock (3947). No director of a savings bank may receive any pay until after whatever interest the directors have determined to allow depositors has been provided for (3952). There is also among the sections requiring reports from banks, savings banks, and trust companies the provision that if "any such bank" delays a report a month or willfully violates any other provision of the statute on reports, the directors are personally liable for all debts of the corporation contracted previous to and during the period of the neglect (4000)

III.—Supervision.

The digest of the statutes on this topic under Banks explains the application of the provisions that are there given. It seems as though all the sections cited there applied clearly to savings banks, including provisions for Reports and Examinations. There is, besides, this section in the savings-bank chapter; the books of every savings bank must be open at all times to inspection by the auditor, or other persons designated by the legislature or the auditor. Every savings bank must report to the auditor its condition on the first Monday of January, April, July, and October, and at such other times as the auditor may call for reports, showing liabilities and assets, loans on mortgages, on collateral, and on personal securities; bonds and stocks; deposits in banks; and cash on hand (3955). Note, however, that a section passed in 1907, transfers all the auditor's duties under banking laws to the state examiner (4009).

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IV.—Reserve Requirements.

See Banks, IV. The provisions of 3921 extend over all banks organized under the provision of the title, clearly including savings banks; the language of 4010 is simply "every bank."

V.—Discount and Loan Restrictions.

The provisions for limit on the amount of money to be borrowed by one person, firm, or corporation given under this head in Banks apply here; there is the same conflict between 3920, applicable to all banks created under the title, and 4011, applicable in its terms to "any bank." See also the provision of the savings-bank chapter that no loan on personal security may be made to any one person or firm to an amount exceeding $10,000 (3951).

See Banks, V, also for the prohibition upon loans to managing officers without ample security, and loans to managing officers or directors without the approval of a majority of the directors; this section applies to "any bank, banking institution, or trust company" (3993), and, though more recent, is thought, under the quoted language, not to override the provision in the savings-bank chapter that no director, officer, or servant of a savings bank may borrow the funds or deposits of the corporation or in any way use them in his private affairs (3952).

(See also VI, below.)

VI.—Investments.

A savings bank may hold such real estate as is necessary for the proper transaction of its business, not to exceed $150,000 in value; such as is mortgaged to it; and such as is purchased at sale on judgment or decree rendered for money so loaned. A savings bank must not deal in per-

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sonal property except such as is necessary for the transaction of its business and such as it takes as security (3954).

At least one-half of the capital paid in and one-half of all deposits must be invested in United States securities, securities of some State, or securities of Montana municipalities on which interest is paid, or loaned on unincumbered realty worth at least double the loan. The remainder may be invested thus or on approved personal security, but no loan must be made on personal security of less than two responsible persons or collateral to be approved by the directors (3951). A savings bank may deposit cash on hand in a bank or trust company in Montana, but not more than $50,000 may be deposited with any one corporation (3958).

VII.—Overdrafts.

There is a penal provision that every officer, teller, or clerk of a savings bank who knowingly overdraws his account and obtains the funds is guilty of a misdemeanor (8714).

X.—Unauthorized Banking.

(See Banks, X.)

XI.—Penalties.

The provisions under this heading seem to be the same as those under Banks, XI, adding only the penal provisions against overdrafts by savings banks' officers given above under VII.

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies are given power to "receive money from any person or persons, corporation, or company,

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on deposit, at such rate of interest and for such time as may be agreed upon, for the purpose of loaning and investing the same" (3927); and they may be formed to "hold money on deposit payable, either on time or on demand, with or without interest" (3937).

The amount of capital stock of a trust company must be not less than $100,000 nor more than $500,000, divided into shares of $100 each; $100,000 must be subscribed and paid in cash before the corporation may begin business (3924 and 3936). A later section provides that the authorized capital stock shall not be more than $10,000,000 (3938). One-half the capital must be stated, in the preliminary papers, to have been paid in in lawful money (3936).

Dividends of the profits may be declared every six months or oftener, but not while the company is insolvent nor so as to make it insolvent (3939). Before declaring a dividend 10 per cent of the amount available must be carried to surplus, until surplus equals 20 per cent of capital (1909, chap. 112). The provisions of 3997 (see Banks, I) may apply; that section, following one applicable to banks, savings banks, and trust companies, allows the directors of "each bank" to declare dividends semiannually, on the first Monday of January and July, out of net profits.

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of every trust company are individually liable for all debts contracted during the time of their being stockholders to the extent of the shares held by them at the time the debts were contracted (3934). See, however, 4012, the application of which has been discussed under II in Banks.

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There must be not fewer than three nor more than twenty-five directors, all of them stockholders and a majority citizens of Montana (3926 and 3938). If the directors knowingly declare a dividend when the corporation is insolvent, or such dividends as will render it insolvent, they are liable for the debts, then existing, and contracted later while they continue in office (3939). For the possible application to trust companies of the section making directors liable for debts contracted while a report is overdue, see the quoted language under Banks, II (4000); the state examiner considers this section inapplicable to trust companies. Directors must make statements of the affairs of the corporation to exhibit to the stockholders at least once a year (3940).

III.—Supervision.

See III under Banks, where the language of the various sections is indicated to show the extent of the application of each one. All sections there given on supervision, REPORTS, and EXAMINATIONS seem to include trust companies, except, perhaps, those which cover "all banks organized under the title." Trust companies, although undoubtedly organized under the title, may not be banks organized under the title. There is this section on supervision in the trust company chapter: The books and records of a trust company are open to examination by the auditor of the State or such persons as he or the legislature designate. Each trust company reports its condition to the auditor on the first Monday of January, April, July, and October and at such other times as he desires, showing liabilities and assets; loans on mortgages, on collateral, and on personal security; bonds and stocks; deposits; and cash on hand (3940). Note, however, that a section passed in 1907 transfers all the duties of the auditor,

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"under the laws regulating the business of banking," to the State examiner (4009).

IV.—Reserve Requirements.

See Banks, IV; it is questionable if these sections apply to trust companies, though it may well be that the language of 3921, "each bank organized under the provisions of this title," may extend to trust companies. It is more doubtful still if 4010, providing for the reserves of "every bank," applies to trust companies.

V.—Discount and Loan Restrictions.

See Banks, V, for the provisions restricting the amount of loans to one person, firm, or corporation; one of the sections there given applies to all banks created under the title (3920), the other to all banks (4011); it is questionable if either of these, especially the latter, applies to trust companies. It is unlawful for any bank or trust company to loan to any managing officer of "such bank" without ample security, and when the loan or a loan to a director exceeds 10 per cent of the capital it must be approved by a majority of directors (3993).

VI.—Investments.

A trust company may hold all such real and personal property as is necessary to carry on its authorized business, as well as such as it deems it necessary to acquire in the enforcement or settlement of demands (3928). Another section provides that a trust company may own only such real estate as is acquired for the transaction of its business and in the enforcement and collection of debts and liabilities due it (3939). The directors are authorized to invest the capital "in good securities;" it is lawful for a trust company to invest capital and funds in mortgages

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of unincumbered realty in Montana, in stocks or bonds of Montana or any other State, and in bonds of any Montana municipality (3930).

X.—Unauthorized Trust Company Business.

(See Banks, X.)

XI.—Penalties.

See Banks, XI; the language of each section is there quoted with sufficient accuracy to suggest the application as far as the section itself does.

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NEBRASKA.

All the statutes of Nebraska dealing with banks, savings banks, and trust companies in force before the session of the legislature of 1909 were contained in Chapter 8, at page 1617, of the compiled statutes of Nebraska, 1907. This chapter was repealed by an act passed at the 1909 session, printed at page 66 of the session laws of Nebraska for 1909, which enacts a complete new statute on the subject of banking. Most of this statute applies to "banks," which term is defined to mean "any incorporated banking institution;" the term "commercial bank" is defined to mean "any such banking institution as shall, in addition to the exercise of other powers, follow the practice of repaying deposits upon check, draft, or order, and of making commercial loans chiefly;" the term "savings bank" is defined to mean "any such banking institutions as shall, in addition to the exercise of other powers, follow the practice of repaying deposits only upon the presentation of pass books, and whose loans are chiefly made on real-estate security" (3). Trust companies are not legislated for particularly unless they are within the definition "incorporated banking institution." The statute applies for the most part to commercial banks and savings banks indiscriminately; the particular matters in which savings banks are legislated for separately are given under that heading in the digest, and of course override, with respect to savings banks, inconsistent provisions given under "Banks;" on all other matters, however, sav-

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ings banks must be taken to be subject to the rules which govern banks. References in the digest are to sections in chapter 10 of 1909.

BANKS.

I.—Terms of Incorporation.

The language of the quotations given in the preliminary paragraph above seems to imply that commercial banking and savings banking may be combined (3); but every corporation at its organization must in its statement declare "the nature of proposed banking business, whether commercial or savings" (15).

The capital required of commercial banks is as follows: In no case less than $10,000; if the bank is located in a village or town of from 100 to 500 inhabitants, not less than $15,000; in a town or village of 500 to 1,000, not less than $20,000; in a town or village of 1,000 to 2,000, not less than $25,000; in a city or village of 2,000 to 5,000, not less than $35,000; in a city of 5,000 to 25,000, not less than $50,000; in a city of 25,000 to 100,000, not less than $100,000; in a city of 100,000 or more, not less than $200,000. The provisions giving the form in which capital may be paid in at organization are given under Savings Banks, although the wording of the statute permits of the interpretation that these provisions apply to commercial banks as well (13). Before organizing, each bank files an oath that "the capital stock has been paid in as provided for." The state banking board must satisfy itself that the incorporators are persons of integrity and responsibility (16).

No bank may withdraw capital in dividends or otherwise (34). Dividends may be declared semiannually of so much of net profits as seems expedient, but before the declaration the bank must carry one-fifth of net profits

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to surplus fund, until the surplus amounts to 20 per cent of the paid-up capital (28).

II.—Liabilities and Duties of Stockholders and Directors.

It is a constitutional provision that "every stockholder in a banking corporation or institution" is individually liable over and above the amount of stock held, to an amount equal to his shares, for all liabilities accruing while he remains a stockholder (Annotated Statutes, Cobbey, 1907, sec. 650). The banking statute provides for this liability, and adds that if a stockholder transfers his shares knowing the bank to be insolvent, he continues liable (35). Another section empowers directors "to levy and collect assessments on the stock of the banking corporation for the purpose of repairing and restoring the credit of said banking corporation, or to repair and restore any deficiency that may occur by reason of the impairment of the capital stock of said bank" (50).

There must be from three to fifteen directors, who must be stockholders (26), and a majority of them residents of the county where the bank is located, or adjacent counties; every director of a bank capitalized at $50,000 or less must own 4 per cent of paid-up capital, and of a bank capitalized at more than $50,000 must own not less than $3,000 of paid-up stock (12). The board of each bank must meet at least twice annually for a thorough examination of the books, records, funds, and securities of the bank; a certified copy of this record is sent to the state banking board (26).

III.—Supervision.

The state banking board of Nebraska consists of the governor, who is ex officio chairman, the auditor of public accounts, and the attorney-general (5). The governor

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appoints a secretary of the banking board, who must be an elector of the State and have had three years' practical experience in banking. His salary is $3,000 per year, and the clerk's salary is $1,500. The governor also appoints examiners, who must have had three years' experience in banking, and who may not have a personal interest in any bank they examine, nor be nor have been within a year preceding their appointment, officers or employees of banks they examine (6). The state banking board, before granting charters, satisfy themselves that the incorporators of the bank in question are persons of integrity and responsibility (16). The banking board approves all reductions and increases in capital stock, and grants consents to voluntary liquidations (34 and 42) and consolidations (41). They approve reserve depositaries (13 and 22).

Any corporation which conducts a banking business without complying with the statute of 1909 may be put into the hands of a receiver (2). When reserves fall below the required amount or capital is impaired, the state banking board may notify the bank in question to make good the deficiency; if this is not done within the time directed, a receiver may be appointed (23). If a bank takes its own stock and does not dispose of it within six months, a receiver may be appointed (25). If it appears to the banking board from an examination or report that the capital of a bank is impaired, or that the bank is conducting its business in an unsafe or unauthorized manner, or endangering the interests of depositors, or if the bank fails to report or to comply with the statute in any other respect, the banking board institutes through the attorney-general a suit for the appointment of a receiver (48). Any bank examiner, when ordered by the board, may take and hold possession of a bank for a time sufficient to make a thorough examination of its condition, and if it is found

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to be insolvent, or to be conducting its business unsafely, or to be endangering the interests of depositors, then the examiner may hold possession of all the assets of the bank until the board can receive his report, and by proper proceedings institute a receivership (10). A bank may voluntarily place its affairs under control of the board by posting a notice on its door (43). After the banking board, a bank examiner, or receiver has held possession of a bank, the stockholders may place it again in condition to do a banking business, whereupon the board issues permission for a reopening in the same manner as it originally granted permission to begin business (50). The banking board has authority to draw upon the depositors' guaranty fund in amounts required to pay claims of depositors in an insolvent bank; see XII, *infra* (52). The authority of a bank examiner, when ordered by the banking board, or a receiver appointed under the act, to take and hold possession of all assets of a bank is provided for, together with their fees (55). If a bank refuses to deliver possession of its assets to the board or its agent, the board communicates with a state's attorney, who applies to court for an order placing the board or its agent in charge (56).

REPORTS.

It is a constitutional provision that "all banking corporations" must publish a quarterly statement of their assets and liabilities (Annotated Statutes, Cobbey, 1907, sec. 650). This is taken care of in the banking act by the requirement that every bank make to the banking board not less than four reports each year in the form prescribed by the board (17), including the following items: Amount loaned on bonds and mortgages; amount loaned on notes, bills of exchange, overdrafts and other personal securities, with values of securities; amount of rediscounts and of

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past-due paper; real-estate investments with cost; cash on hand and on deposit, with names of depositaries and amounts; all other assets; and other information required by the board. Each report states resources and liabilities at the close of business on a past day specified by the board, and must be transmitted to the board within five days after receipt of request. A summary of the report is published in a local newspaper (18). Special reports may be called for by the board (19). Receivers must make monthly reports to the banking board (58). Statements of average daily deposits are required semiannually to ascertain the bank's contribution to the depositors' guaranty fund; see *infra* (45). After each semiannual meeting of the board of directors of a bank they forward to the banking board within ten days a certified copy of the record of their examination into the bank's affairs (26). After each examination by an examiner he reports the condition of the examined bank to the board (8). A list of the names and residences of stockholders, shares held by each, and amount of paid-up capital represented by the shares must be kept subject to inspection by stockholders and creditors (38).

For reports required for purposes of taxation, see Annotated Statutes, Cobbey, 1907, section 10955, and for those required of state depositaries, *ibid.*, section 11366.

EXAMINATIONS.

The affairs of every bank are examined as often as the banking board think necessary, at least semiannually. No examiner may examine a bank in which he has a personal interest, nor one in which he is or has been within a year of his appointment an officer or employee (6). A bank examiner, when ordered by the board, may take possession of a bank for a long enough time to make a thorough examination into its condition, preparatory to

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the institution of proceedings for a receiver, if they prove necessary (10). The state banking board may, if they deem it advisable, order special examinations before allowing voluntary liquidations (34); another section seems to make this examination a prerequisite to every voluntary dissolution (42). The state banking board makes careful investigation of the affairs of a bank in the hands of a receiver before allowing it to resume business (50). The board of directors of every bank make a thorough examination of its records and funds at each semiannual meeting (26).

IV.—Reserve Requirements.

In cities of less than 25,000 every bank must keep a 15 per cent reserve, of which two-fifths must be in cash and the rest may be deposited in depositaries approved by the state banking board. In cities of over 25,000 the reserves must be 20 per cent of aggregate deposits, of which two-fifths are kept in cash and the rest, if desired, in approved depositaries (22). When the reserves fall below the requirement, a bank may make no new loans or discounts, except by discounting or purchasing sight exchange, nor may it declare dividends, until the reserve is restored (23).

V.—Discount and Loan Restrictions.

"The aggregate amount of the rediscounts and bills payable of any corporation transacting a banking business in this State shall at no time exceed two-thirds of its paid-up capital except for payment of its depositors;" nor may any commercial bank permit loans and investments, exclusive of reserve and banking house and fixtures, to exceed eight times capital and surplus (24). No officer, except a director who is not an officer, and no em-

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ployee of any bank, may borrow the funds of the bank; no director may borrow without the approval of the board of directors (32). No bank may loan to any single corporation, firm, or individual, "including in such loan all loans made to the several members or shareholders of such firm or corporation, for the use and benefit of such firm, corporation, or individual," more than 20 per cent of paid-up capital and surplus, but the discount of bills of exchange drawn against existing values, and of commercial paper owned by the persons negotiating it, is not considered money borrowed. The total liabilities of the stockholders of a bank to the bank must never exceed 50 per cent of paid-in capital and surplus (33).

"No corporation transacting a banking business shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, or the shares of any corporation, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and such stock so purchased or acquired shall within six months from the time of its purchase be sold or disposed of at public or private sale; or in default thereof a receiver may be appointed to close up the business of the bank. Provided, that in no case shall the amount of stock so held exceed 10 per cent of the paid-up capital of such bank" (25).

No bank may pay interest on deposits at a greater rate than 4 per cent a year (27).

VI.—Investments.

A bank may hold real estate only for the following purposes: Such as is necessary for the convenient transaction of its business, not exceeding one-third of paid-up capital; such as is conveyed to the bank for debts, and

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such as it purchases at sale under judgment on its securities, but the bank must not bid a larger amount than is necessary to satisfy the debts. Real estate acquired in satisfaction of debts or at judgment sale must not be held longer than five years and thirty days; at no time may the total amount of real estate held for any purpose exceed 50 per cent of paid-up capital (29).

The somewhat confusing section on purchase by a bank of shares of its own stock or of that of any corporation is quoted under V, *supra* (25).

VII.—Overdrafts.

The only mention of overdrafts is in the section on reports, which includes overdrafts as one item required to be reported (18).

X.—Unauthorized Banking.

It is unlawful to transact a banking business in Nebraska except by means of a corporation organized for the purpose under Nebraska law. No corporation may receive money on deposit or prosecute a banking business until it has complied with the provisions of the statute of 1909. The penalty for violation of these prohibitions is $25 a day and the appointment of a receiver to wind up the business of the offender (2). A later section of the statute declares the penalty for transacting a banking business without having obtained a charter and certificate to be $50 a day (20). It is reiterated that no person or persons, exclusive of national banks, are permitted to prosecute a banking business in Nebraska except corporations that have complied with the provisions of the statute of 1909 (5). It is unlawful to transact a banking business without obtaining a charter from the state banking board (11).

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XI.—Penalties.

Any corporation failing to report, or transacting a banking business without first obtaining a charter and a certificate that the corporation has complied with the deposit guaranty law (see also X, *supra*), suffers a penalty of $50 a day (20). Any person who knowingly subscribes to a false report or false entry, or exhibits false papers with intent to deceive an examiner, is guilty of a felony punishable by imprisonment for from one to ten years (21). Any person who makes false oath to any statement required in the reports of average daily deposits on which assessments for the deposit guaranty fund, is guilty of a felony punishable by a fine of from $100 to $1,000, or imprisonment of from one to five years, or both fine and imprisonment (45).

Any examiner who willfully makes a false report with intent to aid in the operation of an insolvent bank, or who receives a bribe to induce him not to file the report of an examination, or who neglects to examine on account of having received a bribe, is guilty of a felony punishable by imprisonment from two to ten years (8).

Any officer, director, or employee who pays interest on deposits at a greater rate than 4 per cent, commits a felony punishable by a fine of from $100 to $500, or imprisonment not to exceed three years ,or both (27). Any officer, agent, or employee knowingly aiding in the receipt of a deposit after insolvency is guilty of a felony punishable by imprisonment for from one to ten years (30). Any officer, director, or employee who is implicated in the violation of the section forbidding officers to borrow, and directors to borrow without the approval of the board, is guilty of a felony punishable by a fine not to exceed $1,000, or imprisonment not to exceed five years, or both (32); any officer, director, or employee who permits a violation of the section forbidding loans to any individual to exceed 20 per cent of paid

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up capital and surplus, is punishable by a fine not to exceed $500 (33): the two offenses just named also render the guilty officer or employee personally liable for loss resulting to the bank (40). A violation of the section requiring the president and cashier to keep, subject to the inspection of stockholders and creditors, a list of the names and residences of stockholders, etc., is punishable by a fine of from $50 to $200, or imprisonment for from thirty to sixty days, or both (38). It is unlawful for an officer or employee to certify a check drawn upon the bank unless the drawer has on deposit an amount of credit equal to the face of the check; on being certified, the amount of the check must be immediately charged against the account of the drawer (39).

The banking board may pay rewards not exceeding in any case $500, out of the depositors' guaranty fund, for the apprehension of persons violating the statute of 1909 (60).

Where no other punishment is provided, any breach of the statute is a misdemeanor, punishable by fine of $25 to $300, imprisonment for thirty to ninety days, or both (61).

The printing or engraving of a false statement that a bank has taken advantage of the depositors' guaranty law is declared to be a violation of the act (14).

XII.—Depositors' Guaranty System.

All banks are subject to assessment for a guaranty fund for the protection of depositors (44). On June 1st and December 1st of each year every bank files with the banking board a statement showing average daily deposits for the preceding six months, exclusive of public money otherwise secured. A month after the reports are filed the state banking board levies assessments against the capital stock of each bank as follows: Within sixty days after the taking effect of the 1909 statute (effective July 2, 1909), one-fourth of 1 per cent of average daily deposits; on January 1,

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1910, one-fourth of 1 per cent of the average daily deposits for the six months preceding December 1, 1909; on July 1, 1910, one-fourth of 1 per cent of the average daily deposits for the six months preceding June 1, 1910; on January 1, 1911, one-fourth of 1 per cent of the average daily deposits for the six months preceding December 1, 1910; and on July 1st and January 1st of each subsequent year, one-twentieth of 1 per cent of the average daily deposits for the six months ending on each preceding June 1st and December 1st (45). Banks organized after the act of 1909 took effect pay 4 per cent on the amount of the capital, when the bank opens for business, this fund to be subject to adjustment on the basis of average daily deposits as shown by its first two semiannual statements. The board has power to adjust rates of assessments of these new banks so as to require each bank to contribute an equitable sum to the fund; and its first two assessments, together with its 4 per cent of capital originally contributed, must equal at least 1 per cent of daily deposits, as shown by the first two semiannual statements (45a).

Banks are notified of the amount of assessments by the banking board, whereupon they must at once set apart the amount of the levy, which they keep as a depositors' guaranty fund payable to the board on demand (46). If the depositors' guaranty fund before July 1, 1910, becomes reduced to an amount less than one-half of 1 per cent of average daily deposits, or subsequent to July 1, 1910, to an amount less than 1 per cent of average daily deposits, the board must levy a special assessment to cover the deficiency; special assessments must be based on average daily deposits, and, when required for the immediate payment of depositors, may be for any amount not exceeding 1 per cent of average daily deposits in any one year (47).

After the board, an examiner, or a receiver has had possession of a bank, its stockholders may replace it in con-

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dition to do business, but it may not reopen until the board, after investigation, is of opinion that its funds are wholly restored and that all advances, if any have been made, from the depositors' guaranty fund are fully repaid with interest (50). Claims of depositors for deposits and claims of holders of exchange have priority in insolvency over all other claims except those for taxes; they are paid immediately out of the available cash in the hands of the receiver. If the cash in the hands of the receiver is insufficient to pay depositors, the court in which the receivership proceedings are had certifies to the state banking board the amount required to supply the deficiency; the board thereupon draws against the depositors' guaranty fund to the amount required and transmits to the receiver these funds, which he applies to pay depositors; but the fund is not available to pay depositors in banks which have not complied with the depositors' guaranty sections of the statute. These drafts against the fund are prorated among the solvent banks in which the fund is kept, in accordance with the amount held by these solvent banks (52). To the extent of the amount paid from the guaranty fund to satisfy claims of creditors, the banking board, for the benefit of the fund, is subrogated to the rights of "creditors" (are "depositors" meant?) thus paid to participate in the assets of the bank; whatever is realized by the receiver through this subrogation is deposited for the fund in the solvent banks proportionately to the assessments levied against these banks (53).

SAVINGS BANKS.

Savings banks—that is, "such banking institutions as shall, in addition to the exercise of other powers, follow the practice of repaying deposits only upon presentation of pass books, and whose loans are chiefly made on real

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estate security" (3)—are, except as noted below, subject to the rules given under banks. The fact that on beginning business a bank must state "the nature of proposed banking business, whether commercial or savings," may imply a prohibition on combining commercial and savings banking in the same institution (15).

CAPITAL.

The minimum paid up capital of a savings bank is $15,000; in cities of from 50,000 to 100,000, the minimum paid up capital is $35,000; in cities of 100,000 or more the minimum paid up capital is $75,000. This paid up capital must consist, at the time, of lawful money carried with depositary banks approved by the banking board, or of national, state, county or municipal bonds, bank furniture, and necessary building and lots on which the building is situated, free from incumbrance; the bonds must not constitute more than one-half, nor the building, lots, furniture, and fixtures more than one-third of the paid in capital, nor the furniture and fixtures more than one-tenth. The wording of this paragraph admits possibly of the interpretation that these limitations on the form of capital apply to commercial banks as well as savings banks (13).

DIRECTORS.

The ownership of five shares of the capital stock of a savings bank qualifies one to be a director (12).

RESERVES.

The section which provides that every bank in cities of less than 25,000 must keep a reserve of 15 per cent of deposits, two-fifths in cash, and in cities of more than 25,000 20 per cent of deposits, two-fifths in cash, proceeds: "Pro-

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vided further, That savings banks shall have on hand at all times as a reserve in available funds an amount equal to at least 5 per cent of their aggregate deposits" (22).

LOANS AND INVESTMENTS.

Savings banks are exempted from the requirement that loans and investments, exclusive of reserve, banking house and fixtures, must not exceed eight times capital and surplus (24). The provisions of the section forbidding loans to a single firm, corporation, or individual in excess of 20 per cent of capital stock and surplus (see Banks, V) do not apply to the securities of savings banks enumerated in section 36 of the statute (33). The section named provides that the loanable funds of a savings bank, except its reserves, must be invested in bonds of the United States, or of any State, or of any municipality in the United States, or, when approved by the state banking board, in other bonds of known marketable value; or loaned on negotiable paper secured by the above-named securities; or loaned upon unencumbered real estate (second-mortgage loans may be made on improved farm lands, but no loans may be made on these lands or other real estate "which, including the aggregate amount of incumbrance thereon, shall exceed 50 per cent of the cash value thereof"); or loaned upon notes secured by collateral security of known marketable value; or held in cash; or deposited in good solvent banks. Chattel mortgages may not be taken by savings banks as collateral (36). Savings banks are not subject to the restrictions (see Banks, V) upon holding real estate (29). Pass books are provided for; a savings bank may issue certificates for legitimate deposits, however (37).

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PENALTIES.

Since the provision forbidding loans to an individual in excess of 20 per cent of capital and surplus does not apply to the enumerated securities of savings banks, the penalty upon officers or employees who loan in excess of 20 per cent is in so far inapplicable to savings banks (33).

TRUST COMPANIES.

There is no separate legislation for trust companies; if they transacted a banking business, they might be within the term "bank," which is defined to mean "any incorporated banking institution," or even within the term "commercial bank," which is defined to mean "any such banking institution as shall, in addition to the exercise of other powers, follow the practice of repaying deposits upon check, draft, or order and of making commercial loans chiefly" (3). Practically all the provisions of the 1909 statute apply to "every corporation transacting a banking business under the laws of this State or under the provisions of this act." The compiler has been assured, however, by E. Royse, esq., secretary of the state banking board, in a letter dated March 24, 1909, that trust companies in Nebraska do not do a banking business.

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NEVADA.

The digest of the statutes of this State is based upon the pamphlet issued by the state banking board in 1909, which contains the three statutes under which banking is conducted. Most of the banking legislation is contained in the statute at page 251 of the laws of 1909, Chapter CXCI of that year; references in the digest, where they are simply numbers in parentheses, are to sections in that act. The other two important statutes, Chapter XCII of 1909 (p. 95), and Chapter CLXVI of 1907 (p. 362), are each cited by the year, the page on which the statute begins, and the section. These statutes apply, except where the language is quoted, indiscriminately to banks, savings banks, and trust companies; the act at page 251 of 1909, indeed, defines "bank," as used in that act, to include banks, savings banks, and trust companies, and extends its provisions to all "individuals, firms, and corporations of any character conducting the business of receiving money on deposit or otherwise acting in the capacity of a bank" (60). It must be borne in mind therefore, that the provisions digested under "Banks" are applicable also to savings banks and trust companies. An old savings bank statute, Chapter XCIII of 1869, was not thought sufficiently important to deserve a place in the latest compilation of the statutes of Nevada, issued in 1900, and on the suggestion of the state banking board, who took counsel of the attorney-general of the State on the question, it has been omitted from the digest.

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BANKS.

I.—Terms of Incorporation.

The statutes do not expressly allow, and, indeed, may be said by implication to forbid, the combination of commercial and savings banking. A bank before beginning business must make a statement to the banking board, setting out, among other things, "the nature of the proposed banking business, whether commercial or savings" (16); a corporation may be formed "for the transaction of a general banking business, or for the purpose of aggregating the funds of the savings of the members thereof and others and preserving and safely investing the same for their common benefit" (1907, p. 362, 1).

"The paid-up capital stock required to entitle a corporation to a license" to do a banking business must be as follows: In no case less than $10,000; in a village or town with from 100 to 500 inhabitants, $15,000; in a village or town of from 500 to 1,000, $20,000; in a village or town of from 1,000 to 2,000, $25,000; in a city or village of 2,000 to 5,000, $35,000; in a city of 5,000 to 20,000, $50,000. "The entire capital stock shall be subscribed, and at least 80 per cent thereof paid in, before such license shall be issued * * * ; and such paid-in capital, including the initial and subsequent payments, shall consist at the time of" money, deposits, national, state, or municipal bonds, bank furniture, building, and the lots on which the building is situated, free from incumbrance; the public bonds mentioned must not constitute more than one-half, nor the building and lots, with furniture and fixtures, more than one-third, of the paid-in capital, nor the furniture and fixtures more than one-tenth (14). Under the previous statute, only 50 per cent of capital had to be subscribed, and 50 per cent of the subscriptions paid in in money (1907, p. 362, 3); "the balance of the

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capital stock remaining unpaid shall be paid in within two years" after the bank receives its certificate of incorporation (1907, p. 362, 4): although the 1909 statute clearly overrides these provisions with respect to the amount of capital required to be subscribed and paid in at the time of incorporation, the quoted requirement that the balance be paid in within two years may still be in effect.

Any corporation transacting a banking business may semiannually declare a dividend out of net profits, but before the dividend is declared one-tenth of net profits must be carried to surplus until it amounts to 20 per cent of paid-up capital (28). Capital must never be withdrawn, either in the form of dividends or otherwise. Dividends may be declared only out of net profits (35).

For limit on borrowing by a bank, see V, *infra*.

II.—Liabilities and Duties of Stockholders and Directors.

There is no legislation on stockholders' liability; the constitution of Nevada provides that stockholders in corporations are not to be individually liable for debts or liabilities of their corporations (art. 8, sec. 3).

There must be not fewer than three nor more than thirteen directors. They must hold not fewer than four regular meetings a year, at which they make examinations (1907, p. 362, 5). A majority of the directors must be residents of the county in which the bank is located or adjacent counties. Each director of a bank capitalized at less than $50,000 must own one-twentieth of its paid-up capital, and in a bank capitalized at more than $50,000 must own not less than $3,000 of paid-up capital (13). Every officer and director violating any provision of the statute of 1909 is civilly liable for damages to any person

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injured (57). See also under XI, *infra*, the provision imposing personal liability upon directors who violate the sections forbidding them to borrow from their bank except on security approved by the board, and limiting the amount of loans to any individual and to stockholders of the bank (33, 34, and 39).

III.—Supervision.

The Nevada state banking board consists of the governor, who is ex officio chairman, and four other members, appointed by him. These appointees hold office for terms of two years. The board meets twice a year and at such other times as the governor or any two members request. Members of the board receive $10 a day while performing their duties (5). The board has general supervision and control of banks and banking under the laws of the State (6). The governor appoints a suitable person, who must have had at least three years' experience in practical banking, to examine banks; this examiner, who is ex officio secretary of the board, must not examine any bank in which he has a personal interest, or of which he is, or within a year preceding his appointment was, an officer or employee (7). His salary is $3,000 a year (10); the appropriation for his salary in the 1909 statutes, however, was $5,500 (1909, chap. CXL, p. 162, sec. 85).

The bank examiner, when ordered by the board, has authority to take possession of any banking corporation, to retain possession long enough to make a thorough examination, and if he then finds that the bank is insolvent or is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, he has power to hold possession of all its assets until the board may receive his report and act upon it to have a

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receiver appointed (11). The board may notify any bank whose reserve falls below the requirement, or whose capital is impaired, to replenish reserves or capital within such time as the board directs; failure to comply is ground for the appointment of a receiver (24). Whenever it appears to the board, from an examination or a report, that the capital of a banking corporation is impaired, or that the corporation is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, and whenever a corporation fails to make a report or to comply with any provision of the 1909 statute, the board reports to the attorney-general, who institutes suit for a receiver (44). The board proceeds for the appointment of a receiver of any corporation, firm, or individual doing a banking business except by means of a properly organized corporation (2). Any bank examiner when ordered by the board, or any receiver appointed under the 1909 statute, has authority to hold the assets of a delinquent corporation until its liabilities have been fully discharged (50). After the board, an examiner, or a receiver has taken possession of a bank, its stockholders may repair its credit, replenish its reserves, and otherwise restore it to proper condition to transact business, subject to the approval of the board (46). Any bank may place its affairs voluntarily under the control of the board by posting a notice on its door (42). The provisions for proceedings in liquidating a bank, proof of claims, distribution of assets, etc., are somewhat detailed; see 47, *et seq.*

The state banking board passes upon reductions and increases of capital, upon voluntary dissolutions (35 and 41), and upon consolidations (40), and makes rules and regulations necessary to carry the 1909 statute into effect (54). Whenever the bank examiner finds an officer of a bank or trust company to be dishonest, reckless, or incom-

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petent, he requires the directors of the corporation to remove him (56A).

REPORTS.

Every banking corporation reports to the state banking board not less than four times a year, according to the form which the board prescribes (18), including the following items: Amount loaned on bonds and mortgages; amount loaned on notes, bills of exchange, overdrafts, and other personal securities, with market value of the securities; amount of rediscounts and commercial paper past due; real-estate investments, with cost; cash on hand and on deposit, with names of depositories, etc.; and other assets. Each report states resources and liabilities at the close of business on any past day specified by the board, and must be presented to the board within five days after receipt of its request. A summary is published in a local newspaper (19). Special reports may be required at any time by the banking board or its chairman (20). After an examination the examiner reports the condition of the examined institution to the board (9). Reports of proposed reductions or increases of capital must be made to the banking board (35). Receivers report to the board monthly (53).

For reports required for taxation purposes, see 1907, Chap. XCVII, sec. 5.

EXAMINATIONS.

The examiner investigates the affairs of every banking corporation as often as the board thinks necessary, and at least twice a year (7 and 9). He has authority, when ordered by the board, to take possession of a banking corporation and retain possession for time to make a thorough examination to determine the bank's solvency, etc. (11). The board must cause an examination to be

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made of any bank which proposes a voluntary liquidation (41). When a bank has been in the possession of the board, the examiner, or a receiver, and has put itself in a position to resume business, the state banking board, before allowing such resumption, must carefully investigate its affairs (46).

Directors at each quarterly meeting must thoroughly examine the books and funds of their bank and record the result on the bank's books (1907, p. 362, 5).

IV.—Reserve Requirements.

Every banking corporation must have on hand in available funds an amount equal to 15 per cent of its entire deposits; two-thirds may consist of balances due from solvent banks, and one-third must consist of cash. Reserve depositaries must maintain a 25 per cent reserve (23). Cash includes lawful money of the United States and exchange for any clearing-house association. When the reserve falls below the requirement, the bank must not make new loans or discounts except by dealing in sight exchange nor make any dividends until the reserve is replenished. The state banking board may notify a bank delinquent in this respect to make good its reserve within such time as the board directs (24).

V.—Discount and Loan Restrictions.

No banking corporation may loan to any single corporation, firm, or individual "including in such loan all loans made to the several members of any such firm for the use or benefit of such firm, corporation, or individual" more than 30 per cent of paid-up capital and surplus; but the discount of bills of exchange drawn against existing values, and of commercial paper owned by the persons negotiating it, is not considered money borrowed. The

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total liabilities of stockholders to their bank must never exceed 50 per cent of paid-in capital and surplus (34).

No banking corporation may loan or discount on the security of shares of its own capital unless accepting this security is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months "from the time of its purchase." The amount of stock "so held" (this includes stock held as security and owned outright) must never exceed 10 per cent of the paid-up capital of the bank (26).

No director, officer, or employee of a banking corporation may become indorser or surety for loans to others or be in any manner obligated for money borrowed of his bank (32). No director, officer, or employee may directly or indirectly borrow money of the bank unless he gives good security, the loan and security to be approved by majority vote of directors, the applicant not voting (33).

No banking corporation may pay interest on time deposits at a greater rate than 4 per cent a year (27). The aggregate of rediscounts and bills payable of any banking corporation must never exceed paid-up capital and surplus, nor may any corporation allow its loans and investments, exclusive of reserve, banking house, and fixtures, to exceed eight times its paid-up capital and surplus (25).

VI.—Investments.

A banking corporation may hold real estate only for the following purposes: Such as is necessary for the convenient transaction of its business, not exceeding in value one-third of paid-up capital; such as is conveyed to it for debts due, and such as is purchased under judgment on its securities, but at a judgment sale the bank must not bid more than is necessary to satisfy its debts, and real estate purchased at judgment sale must not be held longer

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than five years and thirty days; the total real estate held must never exceed in value 50 per cent of paid-up capital (29).

"No bank or trust company shall employ its moneys directly or indirectly in trade or commerce by buying or selling goods, chattels, wares, or merchandise, and shall not invest any of its funds in the stock of any other bank or trust company, nor be the purchaser or holder of any shares therein, unless such securities or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall, within six months from the time of its purchase" be disposed of; after six months, such stock may not be considered assets. Any bank may, however, sell or acquire any personal property which comes into its possession as a collateral for a debt due it, according to the terms of any contract depositing the collateral, or, if there is no contract, then the collateral may be sold as on foreclosure of a chattel mortgage (43).

No corporation may purchase shares of its own capital stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months from its purchase; in no case may the amount of stock "so held" (both as collateral and by purchase) exceed 10 per cent of paid-up capital (26).

No bank may permit its loans and investments, exclusive of its reserve and banking house and fixtures, to exceed eight times its paid up capital and surplus (25).

VII.—Overdrafts.

The only mention of overdrafts in the statutes is where it appears among the items required in reports of banking corporations, "the amount loaned upon notes, bills of exchange, overdrafts," etc. (19).

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VIII.—Branches.

No banking corporation doing business in Nevada may maintain a branch (30).

X.—Unauthorized Banking

It is unlawful for any corporation, firm, or individual to do a banking business in Nevada, except by means of a corporation organized for the purpose under the state statutes; a violation of this section entails a penalty of $25 a day and the appointment of a receiver to wind up the business (2). Another section provides that no person or persons may transact a banking business except corporations which have complied with the provisions of the statute of 1909, except that the act does not apply to national banks (6). It is unlawful for any person or corporation to do a banking business without first obtaining a license from the banking board (12). Any corporation which transacts a banking business without first obtaining a license is subject to a penalty of $50 a day (21); compare this penalty with that first given in this paragraph.

XI.—Penalties.

Any examiner who makes a false report of the condition of an examined corporation with intent to aid in its operation while insolvent, or who takes a bribe to induce him not to file a report of an examination, or who neglects to make an examination on account of having taken a bribe, is guilty of a felony punishable by imprisonment for from two to ten years (9).

Any corporation which fails to make any report required by the 1909 statute is subject to a penalty of $50 a day during the delay (21). Any person who makes a false statement or a false entry in the books of any banking corporation, or subscribes to false papers, etc., with in-

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tent to deceive an examiner, or who makes a false statement of the amount of assets or liabilities, is guilty of a felony punishable by imprisonment for from one to five years (22).

Any officer, director, or employee of a bank which violates the prohibition upon paying more than 4 per cent interest on time deposits is guilty of a misdemeanor punishable by fine of from $100 to $500, imprisonment not to exceed six months, or both (27). Any director, officer, or employee of a banking corporation who becomes in any manner obligated for money loaned by his bank forfeits his office (32). Any director, officer, or employee of a bank who borrows from his bank, directly or indirectly, without giving security approved by the directors, or who violates or allows a violation of the section limiting loans to individuals and to the stockholders of the bank, is personally liable for loss suffered on account of his offense by the bank (33, 34, and 39). Any officer, director, or employee who violates or allows a violation of the second of the two sections above referred to, limiting the loans by a bank to any single corporation, firm, or individual, and to the stockholders of the bank, suffers a fine not to exceed $500 (34). It is unlawful for any officer or employee of a bank to certify a check drawn upon the bank unless the drawer of the check has on deposit an amount of credit equal to the face of the check (38).

Where no other punishment is provided in the statute at page 251 of 1909, one who violates it is guilty of a misdemeanor punishable by fine of from $25 to $500, imprisonment for from thirty days to six months, or both (55).

Apart from the statute in which the above penalties are prescribed there are the following: Every officer, director, agent, etc., of a banking corporation who receives deposits when he knows that the bank is insolvent, and every person who is implicated in receiving deposits in

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this way, is guilty of a felony punishable by imprisonment for from one to ten years (1909, p. 95, 1); an older statute forbids in slightly different terms any president, director, officer, etc., from assenting to the receipt of deposits or the creation of debts by an insolvent institution, and provides that any offender is individually responsible for deposits received and debts contracted (1907, p. 362, 11). No officer of a banking corporation may advertise the amount of capital stock authorized or subscribed unless he also advertises the amount of capital actually paid up; violation of this provision is a misdemeanor punishable by a fine not to exceed $500, imprisonment not to exceed six months, or both (1907, p. 362, 14).

SAVINGS BANKS.

See introductory paragraph; savings banks are subject to all the provisions digested under Banks, except as noted below.

It is provided in the section limiting the loans and investments of banking corporations, exclusive of reserve, banking house and fixtures, to eight times paid-up capital and surplus, that the loans and investments of a savings bank, "exclusive of its reserve and banking house fixtures," must not exceed ten times capital and surplus (25). Savings banks are not subject to the section limiting holdings of real estate. See Banks, VI (29). The funds of a savings bank, excepting its reserve, must be invested in United States bonds, or bonds of any State or of a municipality of any State; or loaned upon negotiable paper secured by such bonds or loaned upon notes or bonds secured by mortgage on unincumbered real estate (second mortgages may be taken on improved farm lands; no loans may be made on these improved farm lands or other real estate which loans, including the aggregate amount of incumbrance on the land, exceed 50 per cent of the

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cash value of the land) or loaned upon notes secured by collateral of known marketable value; or held as cash; or deposited in good solvent banks. Savings banks may not loan upon chattel mortgages (36). A savings bank may issue certificates for legitimate deposits (37).

TRUST COMPANIES.

See introductory paragraph; trust companies are subject to all the provisions given under Banks. They are mentioned expressly once or twice in the statute of 1909: "No bank or trust company" may engage in trade by dealing in merchandise, invest its funds in the stock "of any other bank or trust company," etc., see Banks, VI (43); the bank examiner may order any officer "of any bank or trust company" whom he finds to be dishonest, reckless, or incompetent to be removed by the board of directors (56A).

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NEW HAMPSHIRE.

The Public Statutes, 1901, include all New Hampshire legislation previous to the session of 1901. Some of the laws contained in that revision, however, are not arranged in chapters and sections, but are inserted simply naming the year in which they were passed and the chapter in that year's laws. More recent legislation is in the session laws of 1901, 1903, 1905, 1907, and 1909. The banking statutes of 1909, although the session laws are not published in final form at the time of compiling this digest, have been obtained through the courtesy of the bank commissioners. The board of bank commissioners published in 1905 a reprint of the statutes dealing with state banks, savings banks, and trust companies, which forms, in part, the basis of this digest. Certain provisions not included in that reprint have been incorporated, together with banking legislation of 1907 and 1909. A chapter on "Banks of issue" has been omitted from the digest. Where the citations are prefixed by the letters P. S., they refer to laws found in the Public Statutes, even though they may appear there named by chapter in some year's session laws. Later statutes are cited by the year, followed by the chapter, and, where necessary, the section in that chapter.

BANKS.

I.—Terms of Incorporation.

There is no express provision in the statutes allowing banks to receive savings deposits; "banking and trust

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companies" may do so, for the statute for savings bank investments requires "savings banks and savings departments of banking and trust companies" to invest only in certain ways (1901, chap. 114, 1), and the penalty for violating that statute applies to "any officer or trustee of a savings bank or savings department of a banking and trust company" (1901, chap. 114, 5).

(See also Public Statutes, chapter 165, section 18, which requires "trust companies, loan and trust companies, loan and banking companies, and other similar corporations receiving savings deposits" to conduct the savings business separately.)

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of a "banking corporation" are liable in their individual capacity for the debts of the corporation to the amount of their stock, and not otherwise (P. S., 163, 18).

The trustees or directors of savings banks, state banks, and trust companies meet at least monthly, at which meeting the work for the preceding month of the investment and other committees is submitted to the board (P. S., 1895, chap. 105, 2). If a trustee or director is absent for five successive monthly meetings he forfeits his position (P. S., 1895, chap. 105, 3). Directors of a state bank or trust company must own ten shares of stock, unless the stock of the institution does not exceed $50,000, in which case five shares are sufficient (P. S., 1895, chap. 105, 8). If banks are allowed to do a savings bank business, no doubt the clause making a trustee or officer personally liable for loss due to his illegal investment of savings deposits applies (1901, chap. 114, 5). The semiannual report (see *infra*) is based on an examination by the

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directors (P. S., chap. 165, 20, and P. S, 1895, chap. 105, 5).

III.—Supervision.

Banks, savings banks, and trust companies are under the supervision of a board of bank commissioners, consisting of three residents of New Hampshire, who must not be indebted to any savings bank or trust company in New Hampshire, or officers in a savings bank or trust company; they must not be agents of persons or corporations engaged in making loans or selling securities, nor be officers or stockholders in a corporation engaged in that business. Not more than two members may be appointed from one political party (P. S., chap. 162, 2). The term of office is three years, a new commissioner being appointed each year (P. S., chap. 162, 3, amd. by 1905, chap. 26, 1). The salary is $2,500 a year (P. S., chap. 162, 4; amd. by 1905, chap. 26, 2).

If a bank, savings bank, or trust company refuses to allow an examination, or does not furnish necessary facilities for the examination, or if the commissioners think it necessary for public safety that the institution should not continue to transact business, they petition the court, which may enjoin further business. Further proceedings may lead to the appointment of a receiver. The conduct of the liquidation by the receiver is provided for in some detail (P. S., chap. 162, 12 *et seq.;* amd. in part by 1905, chap. 55, 1).

Provision is made for supervision by the commissioner of examination, verification, etc., of pass books of depositors in "every institution under their supervision," but the other sections of the act in which this is provided for seem to indicate that this requirement is made only of savings banks (P. S., 1899, chap. 72, 2).

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REPORTS.

The provision for semiannual reports from savings banks is extended to require the same reports from state banks and trust companies (P. S., 1895, chap. 105, 5). The clerk of every state bank, savings bank, and trust company must publish within thirty days of an election a list of the trustees or directors (P. S., 1895, chap. 105, 4). The treasurers of all institutions under the supervision of the bank commissioners balance their books on the last business day in June of each year and within fifteen days from that time report to the commissioners on blanks furnished by them, showing the condition of the institutions. The commissioners prescribe what information is required (P. S., chap. 162, 8). Receivers of insolvent institutions make reports as the treasurers of the institutions themselves are required to do (P. S., chap. 162, 18).

The cashier of every state bank makes a statement of the condition of his bank on the first Monday of March, June, September, and December, specifying stock paid in; debts due secured by a pledge of the bank's stock (but see the prohibition on loans on such collateral, stated under V, *infra*); value of real estate; debts due the bank; debts due from directors; specie on hand; and deposits in the bank (P. S., chap. 164, 1). Abstracts of these quarterly returns must be published by the secretary of state (P. S., chap. 164, 4).

(For reports required for purposes of taxation see Public Statutes, chapter 57, section 19 *et seq.*, and Public Statutes 1895, chapter 113, section 4.)

The board of bank commissioners files with the secretary of state an annual report containing a statement of the resources and liabilities of every institution under their supervision; its earnings between examinations, or for a twelve month's period; disbursements for the same pe-

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riod for expenses, etc.; dividends paid; names of certain officers of each institution, with salaries; kinds and amounts of stocks and bonds held by each institution with values; and a statement of the true condition of each institution. The commissioners make recommendations in this report (P. S., chap. 162, 9).

EXAMINATIONS.

The board of bank commissioners examines into the condition and management of banks, savings banks, and trust companies at least annually, and oftener if directed by the governor. They inspect books, evidences of debt, funds on hand, etc., and inquire into the ability of each institution to perform its engagements, and into its compliance with law (P. S., chap. 162, 6). They make the same examinations into the affairs of receivers of insolvent institutions as into the affairs of solvent institutions (P. S., chap. 162, 18). Every state bank, savings bank, and trust company keeps a particular book or record of loans and investments, which is exhibited to the trustees and the commissioners at each examination (P. S., 1895, chap. 105, 6). The directors make a semiannual examination on which their report is based (P. S., 1895, chap. 105, 5).

V.—Discount and Loan Restrictions.

"No savings bank, state bank, or trust company shall loan to any person, firm, or its individual members, an amount in excess of 10 per cent of its deposits or capital stock, nor purchase or hold both by way of investment and security for loans, the stock, and bonds of any corporation to an amount in excess of said 10 per cent" (P. S., 1895, chap. 105, 12). The capital stock of a state bank or trust company may not be accepted by the bank or trust company as collateral (P. S., 1895, chap. 105, 9).

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No loan may be made to an officer or director of a state bank or trust company except by the unanimous consent of the board of directors (P. S., 1895, chap. 105, 10). The cashier of a state bank may not be directly or indirectly indebted to it (P. S., chap. 163, 12). No director of a state bank may be indebted to it directly or indirectly to an amount greater than one-half the stock in the bank then held by him. Loans of state banks to any director must never exceed 3 per cent of the cash capital of the bank (P. S., chap. 163, 13). Contracts by a director or other officer of a state bank "to indemnify any other person for liability to the bank or subjecting himself to liability to the bank on account of any other person" are void (P. S., chap. 163, 14).

VI.—Investments.

Every state bank, savings bank, and trust company has an investment committee of not less than three of its directors or trustees (P. S., 1895, chap. 105, 1). No state bank, savings bank, or trust company may hold as investment the stock and bonds of any corporation to an amount in excess of 10 per cent of the capital stock or deposits (the latter in the case of savings banks presumably) of the investing corporation (P. S., 1895, chap. 105, 12).

X.—Unauthorized Banking.

Limited partnerships may not be formed to do a banking business (P. S., p. 381).

XI.—Penalties.

If any bank commissioner in the annual report makes a statement without having fully examined the condition of the institution with regard to which his statement is made, or makes a false statement, he is fined not more

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than $1,000, or imprisoned for not longer than five years (P. S., chap. 162, 10). If the clerk of a state bank, savings bank, or trust company fails to publish the list of annually elected directors or trustees or makes a false publication, he is liable to a penalty of $100; so is any person who circulates a list of directors or trustees containing names of persons who have not entered the office and taken the oath (P. S., 1895, chap. 105, 4). Any director or trustee of a state bank, savings bank, or trust company who makes a statement of the condition of the institution without having fully examined it, or makes a false statement, is fined not more than $1,000, or imprisoned for not longer than five years (P. S., 1895, chap. 105, 5). The director of a bank who exceeds the limit of loans from the bank to him is fined double the excess, one-half of the fine going to the person who sues (P. S., chap. 163, 13). Any officer or director of a state bank or trust company violating any provision of law for which no other penalty is prescribed is punished by a fine not exceeding $500 (P. S., 1895, chap. 105, 13). Any officer of a state bank who receives compensation for procuring a loan, indemnifying an indorser on paper held by the bank, etc., forfeits $100 and three times the amount of the compensation to any person who sues (P. S., chap. 163, 15). Any state bank which fails to make a quarterly cashier's report is fined not more than $1,000 for each offense (P. S., chap. 164, 3).

SAVINGS BANKS.

I.—Terms of Incorporation.

There are in New Hampshire guaranty savings banks with capital stock and mutual savings banks without.

No guaranty savings bank, trust company, or other similar corporation may begin business until it has satis-

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fied the commissioner that its capital has been paid in (P. S., chap. 162, 11).

The total yearly expenses of a savings bank must not exceed $4,000 while the average amount of its deposits is $1,000,000 or less, and in no given case may exceed the sum produced by adding to $4,000 one-fifth of 1 per cent of the excess of deposits over $1,000,000 (P. S., chap. 165, 5).

Every savings bank annually passes to the credit of its guaranty fund a sum equal to 10 per cent of its net earnings for the year until the fund equals 5 per cent of deposits. This guaranty fund may be increased to 10 per cent of deposits (P. S., chap. 165, 16). The special depositors of a guaranty fund in a savings bank doing business under the guaranty system may increase the fund at a meeting of depositors. This increase may be subscribed for by the special depositors in proportion to their special deposits, or by other parties in case the special depositors fail to subscribe for it all. The increase in the guaranty fund may be on such terms of preference over the original funds as to dividends and in distribution of assets as may be determined by vote of the special depositors (P. S., 1895, chap. 92, 1).

No savings bank may pay more than 3½ per cent dividends unless it has accumulated a guaranty fund equal to 5 per cent of its deposits, nor unless its assets as valued by the bank commissioners exceed the amount due depositors by at least 5 per cent; no savings bank having a guaranty fund less than 5 per cent of deposits, nor any savings bank whose assets do not exceed deposits by at least 5 per cent may declare in any year dividends exceeding net income after providing for a guaranty fund. (Act of April 8, 1909.)

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II.—Liabilities and Duties of Stockholders and Directors.

For stockholders' liability in "banking corporations," see Banks, II.

The provisions stated under Banks for monthly meetings of trustees and for loss of office when absent from five successive monthly meetings apply to the trustees of savings banks (P. S., 1895, chap. 105, 2 and 3). The requirement for holding stock as a prerequisite to eligibility to be a trustee is so framed that apparently to be a trustee of a guaranty bank one must own ten shares of the guaranty fund of the institution, unless the guaranty fund does not exceed $50,000, in which case five shares qualify (P. S., 1895, chap. 105, 8). No person indebted to a savings bank is eligible to any office in the bank unless the loan was made with the consent of all the trustees (P. S., chap. 165, 2 and 13). No one engaged in negotiating loans or selling securities in New Hampshire is eligible to be president, treasurer, or a member of the investment committee of a savings bank (P. S., chap. 165, 3). Trustees may be paid a reasonable compensation for their services (P. S., chap. 165, 4). Officers and employees of savings banks, trust companies, etc., are forbidden to receive compensation for procuring a loan from the bank (P. S., chap. 165, 30). If any officer or trustee of a savings bank violates the provisions limiting savings-bank investments, he becomes, in addition to the regular penalties, personally liable for losses which may occur to the bank from his investment (1901, chap. 114, 5).

III.—Supervision.

Savings banks are placed under the supervision of the board of bank commissioners (P. S., chap. 162, 1). The

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qualification and tenure of this board were stated under Banks. Guaranty savings banks may not begin business until they have satisfied the commissioners that their capital is paid in (P. S., chap. 162, 11). The provisions for proceedings in court against savings banks which refuse to be examined or which public safety requires to be closed are as stated under Banks (P. S., chap. 162, 12 *et seq.*).

A judge, in connection with the bank commissioners, on petition of the trustees of a savings bank, may scale down the deposit accounts, if the assets of the bank become worth less than the total amount of deposits, so as to divide the loss equitably among depositors. This may be done by the commissioners themselves when the assets are reduced below 90 per cent of the deposits. If the assets appreciate in value later, the depositors whose accounts were reduced receive the excess. If new deposits are received after this sort of reduction, the business relating to the new deposits is conducted as though by a separate bank (P. S., chap. 165, 26, 27, 28, and 29). The commissioners may cause the separation of a savings bank and a national bank occupying the same office (IX, *infra;* P. S., chap. 165, 22). They have supervision over a verification of deposit books of savings banks and a corresponding trial balance required every four years. They require "every institution under their supervision" to select a competent person to examine and verify the individual pass books. Depositors are required to present their books (P. S., 1899, chap. 72, 1, 2, and 4).

REPORTS.

The trustees of every savings bank make an examination of the affairs of the bank every six months, on which they base a report in the form prescribed by the bank commissioners. They publish this report in a local news-

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paper (P. S., chap. 165, 20). The treasurers of all institutions under the supervision of the bank commissioners balance their books on the last day of June in each year, and within fifteen days report to the commissioners on blanks furnished by them showing the condition of the institutions (P. S., chap. 162, 8). Receivers report as solvent institutions do (P. S., chap. 162, 18). As in the case of banks, the clerk of every savings bank is required to publish lists of newly elected trustees (P. S., 1895, chap. 105, 4).

Every five years the treasurer of every savings bank makes a list of depositors who have not deposited or withdrawn funds for twenty years, if they are not known to the treasurer to be living, or if, though they are dead, their executors or administrators are not known to the treasurer. This list, showing addresses, fact of death, if known, and amount to the credit of the lost depositors, if it exceeds $5, is published in local newspapers and transmitted to the bank commissioners to be published in their report (P. S., chap. 165, 24).

(For reports for purposes of taxation see Public Statutes, 1895, chapter 113, section 4, and Public Statutes, chapter 165, section 12.)

The board of commissioners, as stated under Banks, make an annual report. The special item required in it from savings banks is the statement of unclaimed deposits (P. S., chap. 162, 9, and P. S., chap. 165, 24).

EXAMINATIONS.

The trustees of every savings bank, in person or by a committee of the board, make a thorough examination of the affairs of the savings bank every six months, on which their report to the commissioners is based (P. S., chap. 165, 20). Once a year, or oftener if the governor

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requires, the board examines the condition and management of every savings bank, as in the case of banks (P. S., chap. 162, 6). Receivers are examined as the solvent institutions are (P. S., chap. 162, 18). The record book of loans and investments is kept for investigation by the trustees and the bank commissioners as in state banks (P. S., 1895, chap. 105, 6).

V.—Discount and Loan Restrictions.

The guaranty fund of a guaranty savings bank may not be accepted by the savings bank as collateral (P. S., 1895, chap. 105, 9). "No savings bank, state bank, or trust company shall loan to any person, firm, or its individual members an amount in excess of 10 per cent of its deposits or capital stock, nor purchase or hold both by way of investment and security for loans, the stocks and bonds of any corporation to an amount in excess of said 10 per cent" (P. S., 1895, chap. 105, 12). It seems as though in this provision the percentage of deposit was intended to apply to savings banks and the percentage of capital stock to state banks and trust companies.

No savings bank may loan to one of its officers nor accept an officer as surety unless all the trustees have consented (P. S., chap. 165, 13). No officer or employee of a savings bank may accept a compensation from a borrower to induce a loan (P. S., chap. 165, 30).

(For incidental loan restrictions classified with investments in the statutes see VI, *infra*.)

VI.—Investments.

Savings banks, like state banks, elect from their trustees an investment committee of not less than three (P. S., 1895, chap. 105, 1). No savings bank may hold as investment and as collateral stock and bonds of any cor-

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poration to an amount in excess of 10 per cent of the deposits of the savings bank, or of its capital stock (P. S., 1895, chap. 105, 12).

The prescribed investments for savings banks are as follows: First, notes secured by first mortgages of New Hampshire real estate, but not over 70 per cent of the value of the property covered may be thus loaned, and not over 70 per cent of the deposits may be thus invested. Second, notes secured by a first mortgage of real estate outside New Hampshire, if improved, occupied, and productive, but not over 50 per cent of the value of the property may be thus loaned, and not more than 25 per cent of deposits may be thus invested. Third, in notes secured by collateral in which the bank is at liberty to invest, of a value at least 10 per cent in excess of the face of the note. The amount of any one class of securities thus taken as collateral, added to the amount of securities of that class which the bank holds, must not exceed the total limit set for investments in that class; not more than 25 per cent of deposits may be invested in this manner. Fourth, in notes secured by collateral securities which are dealt with on the Boston or New York exchange, provided the stock-exchange price is 20 per cent in excess of the face of the note; not more than 25 per cent of deposits may be thus invested. Fifth, in notes of individuals or corporations with two or more signers or one or more indorsers, but not exceeding 5 per cent of deposits may be loaned to one person or corporation in this class of security, and not exceeding 25 per cent of deposits may be thus invested. Sixth, in public funds of the United States. Seventh, in bonds and notes of New Hampshire or municipalities of New Hampshire. Eighth, in bonds or notes of any State or Territory of the United States, and bonds or notes of any city in the other New England States or in New York, whose net indebtedness

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does not exceed 5 per cent of the value of property in the city for taxation, or bonds or notes of counties, towns, etc., in those States whose indebtedness does not exceed 3 per cent. Ninth, in bonds of municipalities of other States or Territories of the United States whose net indebtedness does not exceed 5 per cent of the value of their property for taxation; also bonds of any city of 100,000 in any of those States whose net indebtedness does not exceed 7 per cent of the value for taxation. Bonds are not legal investments if they have been issued in aid of railroads or for special assessment purposes. Moreover, bonds of counties, cities, and towns of less than 10,000, or of other municipal corporations of less than 2,000, are not legal investments. To be legal investments these bonds must be issued by municipalities that are permitted to levy taxes sufficient to pay the interest and to provide for sinking funds for their debt. Not exceeding 50 per cent of deposits may be thus invested. Tenth, in bonds or notes of railroad companies, except street railways, incorporated under New Hampshire law, and located wholly or in part in New Hampshire, but not exceeding 25 per cent of deposits may be thus invested. Eleventh, in bonds of any railroad company, except street railways, incorporated under the law of "any of the New England States, whose road is located wholly or in part in the same," and which is operating its own road and has paid regular dividends for two years; also bonds guaranteed by such a railroad company. But not exceeding 25 per cent of deposits may be thus invested. Twelfth, in bonds of any railroad company, except street railways, incorporated under the law of any State or Territory, if it is operating its own road and has paid regular dividends of not less than 4 per cent for three years, provided that the capital equals one-third of the entire bonded debt; also bonds guaranteed by such a railroad. But not exceeding 25 per cent of deposits

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may be thus invested. Thirteenth, in first-mortgage bonds of corporations of New Hampshire, except street railways, whose net indebtedness does not exceed the paid-in capital stock; but not exceeding 10 per cent of deposits may be thus invested. Fourteenth, in bonds of street-railway corporations incorporated under New Hampshire law and located wholly or in part there, and bonds of street-railway corporations located wholly or in part in cities of 30,000 inhabitants or more in any of the other New England States, and bonds of street-railway corporations located wholly or in part in cities of 50,000 or more in any of the United States, provided that the net indebtedness of any of these street railways does not exceed the paid-in capital, and that the corporation has paid dividends of not less than 4 per cent for five years. But not exceeding 10 per cent of deposits may be thus invested. Fifteenth, in bonds of telephone, telegraph, or express companies doing business in the United States, provided the total indebtedness of the company does not exceed its paid-in capital, and provided that the company has paid regular dividends of at least 4 per cent for five years. But not exceeding 10 per cent of deposits may be thus invested. Sixteenth, in the stock of any banking or trust company of New Hampshire, but the amount of such stock held by any savings bank as an investment and as collateral must not exceed one-tenth of the total capital of the company whose stock is held, and not exceeding 10 per cent of the deposits may be thus invested. Seventeenth, in stock of any national bank or trust company in the New England States or in New York, but the amount of such stock held by any savings bank as an investment and as collateral must not exceed one-tenth of the total capital of the bank or trust company whose stock is held (except in the case of a New Hampshire national bank or trust company, of which a savings bank may hold not

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exceeding 25 per cent of the total capital—amendment of March 31, 1909), and not exceeding 10 per cent of deposits may be thus invested. Eighteenth, in stock or notes of any railroad corporation, exclusive of street railways, located in the United States, that has paid dividends of not less than 4 per cent for five years, provided the capital equals one-third of the bonded debt. Also stock of any other railroad whose property is leased to such a railroad at an annual rental of not less than 4 per cent of the capital of the leased railroad, provided the leased road has earned dividends of not less than 3 per cent for three years before the lease. But not exceeding 25 per cent of deposits may be thus invested. Nineteenth, in stock or notes of any manufacturing company in New England that has paid dividends for five years and does not show a debt exceeding the amount of its paid-in capital; but not exceeding 10 per cent of deposits may be thus invested. Twentieth, in stocks or notes of any parlor-car or sleeping-car company in the United States whose cars are in use on a railroad whose stock is a legal investment, provided the company has paid regular dividends of not less than 4 per cent for five years; but not exceeding 5 per cent of deposits may be thus invested. Twenty-first, in land and buildings for banking purposes, the total cost of which must not exceed 10 per cent of deposits (1901, chap. 114, 1, amd. by 1905, chap. 81, and 1907, chaps. 29 and 67). Twenty-second, in the stock of any real-estate trust company of New Hampshire whose property is located in the State, and whose capital is $100,000 or more, provided its debts do not exceed one-half its paid-in capital, and provided it has earned and paid 4 per cent dividends for five years; but not exceeding 5 per cent of deposits may be thus invested (act of March 11, 1909). Savings banks may hold and lease real estate acquired by foreclosure of mortgages

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owned by the bank, but they must pay taxes, etc., out of the bank's income (1901, chap. 114, 2). Deposits of cash on call may be made in authorized banks and trust companies in New Hampshire or Massachusetts, or in national banks in New England, New York City, or Philadelphia (1901, chap. 114, 3).

IX.—Occupation of the Same Building.

If a savings bank does business in the same office with a national bank, the treasurer of the savings bank must cause a committee of the directors of the national bank to indorse on the reports of the examinations of the savings bank which are made to the bank commissioners a certificate that they examined the affairs of the national bank at the same time and found them correct (P. S., chap. 165, 21). If the treasurer fails to furnish this certificate within a time fixed by the commissioners, they may separate the two banks (P. S., chap. 165, 22).

X.—Unauthorized Banking.

No person, firm, or corporation except savings banks incorporated in New Hampshire, and trust companies, loan companies, etc., empowered by their charters, may use a sign, or printed paper, indicating that the business is that of a savings bank, or transact business in a way suggestive of that of a savings bank. The commissioners may examine the books of any corporation, firm, or individual receiving money on deposit to make sure it has not violated this provision. The penalty for violation is $100 a day (1907, chap. 112, 2 and 3).

XI.—Penalties.

The penalties stated under Banks hold good for false reports by a bank commissioner (P. S., chap. 162, 10),

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failure on the part of the clerk of the corporation to publish the list of newly elected trustees (P. S., 1895, chap. 105, 4), and false statement or report by trustees or directors (P. S., 1895, chap. 105, 5). Any officer or trustee of a savings bank willfully violating any provisions where no other penalty is prescribed forfeits, as in the case of bank officers and directors, not more than $500 (P. S., 1895, 105, 13). There is a provision also in chapter 165 that the violation of any provision of law by a savings bank or its officer, where no other penalty is prescribed, is a fine not to exceed $1,000 (P. S., chap. 165, 33). If the treasurer of a savings bank allows private banking to be carried on in the office of the savings bank he is fined not more than $1,000, imprisoned not longer than one year, or suffers both penalties (P. S., chap. 165, 10 and 11). If the treasurer of a savings bank neglects to publish his report of unclaimed deposits he is fined $100 for each offense (P. S., chap. 165, 25). Any officer or employee of a savings bank, trust company, etc., who receives a fee as an inducement for a loan by the bank is fined not more than $10,000, imprisoned not more than ten years, or suffers both penalties (P. S., chap. 165, 31). Any officer of a savings bank, loan and trust company, etc., who embezzles, or makes false entries or statements, intending to defraud, or to deceive an officer or some examining official, is fined not more than $20,000, or imprisoned not longer than ten years (P. S., chap. 165, 32). The person appointed to verify depositors' books in savings banks suffers, if he makes a false statement of the result of his examination, a fine of not more than $500, or imprisonment for not more than one year (P. S., 1899, chap. 72, 1).

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TRUST COMPANIES.

I.—Terms of Incorporation.

The statutes allow trust companies to do a savings deposit business (P. S., 1901, chap. 114, 1 and 5). Moreover, trust companies, loan and trust companies, etc., receiving deposits or transacting the business of a savings bank must conduct the business as a separate department, and that department is amenable to the laws governing savings banks (P. S., chap. 165, 18).

Trust companies are not allowed to begin business until all their capital stock has been paid in (P. S., chap. 162, 11).

II.—Liabilities and Duties of Stockholders and Directors.

If trust companies are within the term "banking corporations" their stockholders are liable in their individual capacity only for the debts of the corporation to the amount of their stock (P. S., chap. 165, 18).

The requirement stated under Banks that directors meet at least monthly to review the work of the investment committee and other committees for the preceding month, and the provision that directors absent from five successive monthly meetings forfeit their positions hold good in trust companies (P. S., 1895, chap. 105, 2 and 3). Every director of a trust company, as in the case of banks, must own at least ten shares of stock, unless the capital does not exceed $50,000, in which case five shares are sufficient (P. S., 1895, chap. 105, 8). No officer or employee of a trust company may accept a compensation for inducing the making of a loan by the trust company (P. S., 165, 30). Officers or trustees of the savings department are personally liable for loss which a bank suffers

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through their willful violation of the requirements for savings-deposit investments (P. S., 1901, chap. 114, 5). Each semiannual report is based on an examination which must be made by the directors (P. S., chap. 165, 20, and P. S., 1895, chap. 105, 5).

III.—Supervision.

The board of bank commissioners have control over trust companies (P. S., chap. 162, 1). The provisions for winding up the affairs of trust companies which refuse to be examined or which seem to the commissioners to be in dangerous condition are as stated under Banks (P. S., chap. 162, 12 *et seq.*). Reports and examinations are subject to the same rules as were given under Banks.

V.—Discount and Loan Restrictions.

See Banks for provisions applicable also to trust companies forbidding stock in a trust company to be taken by the company as collateral, forbidding loans to officers or directors except by unanimous approval of the board of directors, and forbidding loans to individuals, firms, etc., in excess of 10 per cent of capital stock of the trust company, and the acceptance as collateral of such stock and bonds of any corporation as to make the lender hold an amount in excess of 10 per cent of the lender's capital (P. S., 1895, chap. 105, 9, 10, and 12). See also the prohibition upon the acceptance of compensation by an officer or employee of a trust company for inducing the company to make a loan (P. S., chap. 165, 30).

VI.—Investments.

Every trust company has an investment committee such as banks have (P. S., 1895, chap. 105, 1). As under Banks, there is also a prohibition on holding stock and

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bonds of any corporation to an amount greater than 10 per cent of the capital of the investing trust company (P. S., 1895, chap. 105, 12).

XI.—Penalties.

See Banks (XI) for penalties upon bank commissioners who report falsely, upon clerks who fail to publish lists of newly elected directors, and upon directors who report falsely. See Banks also for the penalty for violating a law in which no particular penalty is prescribed. The officer or employee of a trust company who takes a compensation for inducing a loan, etc., suffers a fine of not exceeding $10,000, imprisonment for not more than ten years, or both (P. S., chap. 165, 30 and 31). There is a penalty upon any officer of "a loan and trust company" who embezzles, or commits various frauds, including false entries or statements, of not more than $20,000 or imprisonment not exceeding ten years (P. S., chap. 165, 32).

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NEW JERSEY.

The statutes of this State are in so inconvenient a form for investigation, there having been no revision since 1895, that the pamphlets issued in 1906 by the department of banking and insurance—one containing the laws relating to banks, banking, and trust companies, the other containing the savings bank act—have been relied on for the digest, merely bringing it to date by references to chapters in the laws of New Jersey for 1907, 1908, and 1909. Each reference in the digest gives the year of the statute in question, the chapter in that year's laws, and the section in the chapter.

BANKS.

I.—Terms of Incorporation.

The capital stock of every bank must be not less than $50,000, and divided into shares of $100 each, all of which must be paid in in cash before business is begun. No corporation organized under the banking law may issue more than one class of stock (1899, chap. 173, 1). Before allowed to begin business the incorporators must show the commissioner of banking and insurance that the establishment of the proposed bank will be of public service (1899, chap. 173, 3).

Dividends may be declared out of net profits, but before the declaration not less than one-tenth of the net profits for the preceding dividend period must be carried to surplus until the fund amounts to 20 per cent of the capital (1899, chap. 173, 10).

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II.—Liabilities and Duties of Stockholders and Directors.

There is no special provision for liability of stockholders in banks.

There must be not fewer than five directors, a majority of whom must be residents of New Jersey. Every director must hold not less than five shares of stock (1899, chap. 173, 9, amd. by 1906, chap. 190). The board appoints an examining committee to make an examination as stated below (1899, chap. 173, 11). If the directors fail to exact of the cashier a $20,000 bond, they are personally liable for his defalcations up to that amount (1899, chap. 173, 22).

III.—Supervision.

There is a department of banking and insurance (1891, chap. 6, 1), of which the chief officer is the commissioner of banking and insurance, appointed for terms of three years. The commissioner must not be connected with the management of any corporation over which he exercises supervision (1891, chap. 6, 2). His salary is $6,000 a year (1903, chap. 34).

The commissioner, before authorizing the incorporation of a bank, must determine that the establishment of the bank will be of public service (1899, chap. 193, 3). Whenever it appears to him from a report or examination that the affairs of any bank are in an unsound condition on account of illegal and unsafe investments, or that its liabilities exceed its assets, or that it is violating law, or that it is inexpedient that the bank continue business, then he must cause proceedings to be instituted against the bank as against an insolvent bank, or such other proceedings as the case may require. If he has reason to conclude that the bank is in an unsound or unsafe condition, he may take possession of its assets and retain possession until the

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proceedings that he has caused to be instituted by the attorney-general are concluded, or until a receiver is appointed (1899, chap. 173, 24). If any bank refuses to submit its affairs to examination, that is ground for proceedings as against an insolvent bank. If it appears to the commissioner that any bank has violated the law, or is conducting its business unsafely, he orders a discontinuance of the practices; if the bank does not comply with the order, this is ground for the same proceedings (1899, chap. 173, 25). Whenever a bank is insolvent or suspends its business for want of funds, the attorney-general or any creditor or stockholder may petition the court for the appointment of a receiver. If the court thinks the corporation insolvent and not about to resume business in a short time safely, it may issue injunctions, etc.; or if it is made to appear to the court on application of the attorney-general that the bank is in an unsound condition; that liabilities exceed assets; that there has been violation of law; that examination has not been allowed; or that it is inexpedient for the bank to continue business, the court may stop the bank's business and appoint a receiver (1899, chap. 173, 29 and 30, amd. by 1906, chap. 156).

Creditors or shareholders of a bank interested to the amount of $1,000 or more may apply to the court of chancery, which may order a strict examination by persons appointed by it and make such orders as it thinks necessary (1899, chap. 173, 26). On an application by two or more directors, creditors, or stockholders of any bank the court of chancery must appoint one or more commissioners to examine the bank; if the bank refuses to allow examination by this commissioner of court, or if after examination the court thinks public interest demands it, the court directs the attorney-general to proceed as against an insolvent bank (1899, chap. 173, 27).

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REPORTS.

Every bank makes to the commissioner not less than four reports annually according to the form he prescribes; the report shows the condition of the bank at the close of business on a past day specified by the commissioner, and is transmitted to him within ten days after receipt of his request. A summary is published in a local newspaper. The commissioner may call for special reports when necessary (1899, chap. 173, 13).

The commissioner makes an annual report to the legislature embracing a statement of proceedings taken against banks, of new banks organized, and a summary of all reports (1899, chap. 173, 32).

EXAMINATIONS.

The directors of every bank appoint from their number an examining committee who make an examination at least once every six months; this committee reports to the board with a special view to showing what assets are not of the value given them on the books (1899, chap. 173, 11). Regular examinations by the commissioner or a subordinate may be made whenever a commissioner thinks it expedient or at the request of the bank (1899, chap. 173, 23). The court of chancery may order an examination by a master of the court, or by other persons, not exceeding three, appointed by the court, or by one or more commissioners—see above (1899, chap. 173, 26 and 27).

IV.—Reserve Requirements.

Every bank must keep in available funds an amount equal at least to 15 per cent of its immediate liabilities; three-fifths of this reserve may be in balances due from good solvent banks or trust companies and two-fifths must be in cash on hand. When reserves fall below, the bank

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must not make any new loans or discounts, except by buying sight exchange, nor declare dividends out of profits (1899, chap. 173, 20).

V.—Discount and Loan Restrictions.

The total liabilities to any bank of a person, firm, or corporation for money borrowed, including in firm or corporation liabilities those of the members, must never exceed 10 per cent of the paid-in capital and surplus; this does not apply to loans to municipalities, and money borrowed is to be construed not to include discount of commercial paper owned by the person negotiating it, discount of bills of exchange drawn against existing values, and discount of paper based on collateral whose actual value is 10 per cent above the loan (1899, chap. 173, 18).

No bank may loan to officers, directors, or employees, except upon the approval of a majority of the board of directors or the executive committee. No bank may allow its officers, directors, or employees to be liable by reason of overdrawn account (1899, chap. 173, 12).

No bank may loan on the security of its own shares, unless the security is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within a year (1899, chap. 173, 15). Among general powers of banks is that of "loaning money on real and personal security" (1899, chap. 173, 6).

VI.—Investments.

Every bank may hold such real estate as is necessary for the convenient transaction of its business, including with its banking offices other apartments that may be rented (but this investment must not exceed 25 per cent of capital and surplus); such as is mortgaged to it; such as is conveyed to it in satisfaction of previous debts; and such

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as it acquires by sale on judgment or decree in its favor. Except the banking house, real estate must not be held longer than five years (1899, chap. 173, 6).

No bank may hold its own stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within a year (1899, chap. 173, 15).

VII.—Overdrafts.

The only provision with respect to overdrafts appears to be that which forbids the officers, directors, or employees of a bank to become liable to the bank "by reason of overdrawn account" (1899, chap. 173, 12).

X.—Unauthorized Banking.

No corporation other than a national bank, a trust company, or a savings bank may be organized to carry on banking business in New Jersey except under the act of 1899, and except for banks organized under that act, only savings banks may use the word "bank" or "banking" as part of their name (1899, chap. 173, 1). No bank organized under other laws than those of New Jersey may transact any business in New Jersey, except to the extent that similar corporations of New Jersey are allowed to do business in the State or country incorporating the bank now seeking to do business in New Jersey (1907, chap. 35).

XI.—Penalties.

Officers, directors, or employees who are implicated in loans to officers without the consent of the board of directors, or in overdrafts by officers, are guilty of a misdemeanor, punishable by fine of not more than $1,000, imprisonment for not more than five years, or both (1899, chap. 173, 12). Directors, officers, or employees who make false statements intended to deceive examiners, or

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subscribe to or make false reports, are guilty of a "high misdemeanor" (1899, chap. 173, 14). Any bank which fails to report is subject to a penalty of $100 a day (1899, chap. 173, 13). Any person who maliciously circulates statements affecting the solvency of any bank, or who aids another to circulate such rumors, is guilty of a misdemeanor (1907, chap. 50).

SAVINGS BANKS.

I.—Terms of Incorporation.

The savings bank act provides for institutions without capital stock (1906, chap. 195, 3). At least a majority of the incorporators must reside in the county where the bank is to be located and be freeholders in New Jersey (1906, chap. 195, 2, amd. by 1908, chap. 39). The commissioner does not allow the incorporation unless he believes that greater convenience of access to a savings bank will be afforded to a considerable number of depositors, that the density of population in the neighborhood will afford it support, and that the incorporators are fit (1906, chap. 195, 8).

Dividends not to exceed 5 per cent a year are regulated so that as nearly as may be all the net profits are received by the depositors after such an amount as the managers deem expedient is reserved for a surplus, which may accumulate up to 15 per cent of deposits. For dividends, depositors may be divided into classes, so that depositors in amounts of under $1,000 receive a dividend greater than depositors of over that amount. When the surplus amounts to 15 per cent and net profits are accumulated beyond that point, an extra dividend once every three years must be paid (1906, chap. 195, 40).

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II.—Liabilities and Duties of Managers.

The business of every savings bank is directed by a board of managers of not less than nine nor more than fifteen (1906, chap. 195, 15). At least a majority of the board of managers must reside in the county where the bank is located and be freeholders in New Jersey (1906, chap. 195, 17, amd. by 1908, chap. 39). There must be meetings every three months (1906, chap. 195, 16). A manager who borrows from the bank or fails to attend meetings or perform duties for six months vacates his office (1906, chap. 195, 18). No manager may have any interest in the gains or profits of the savings bank except as a depositor, nor may he take any pay for his services except such compensation for attendance on meetings or service on committees as may be fixed by a two-thirds vote of the board (1906, chap. 195, 20 and 23). The managers, by a committee of at least three of their number, examine at the end of each year (1906, chap. 195, 42).

III.—Supervision.

The commissioner of banking and insurance exercises supervision over savings banks. He determines whether convenience, necessities of the district, and fitness of the incorporators warrant allowing the incorporation of a proposed savings bank (1906, chap. 195, 8, 9, and 11). He may reduce the compensation of savings-bank officers if it is fixed at an excessive amount (1906, chap. 195, 22).

When it appears to the commissioner, from an examination or from a report, that a savings bank has violated the law, or is conducting its business unsafely, he directs the discontinuance of the illegal or unsafe practices. Whenever any savings bank does not report, or fails to comply with an order, or it appears to the commissioner that it is inexpedient to allow the savings bank to continue

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business, he causes the attorney-general to institute proceedings for the removal of managers, or for such other relief as the facts seem to require (1906, chap. 195, 52). He may proceed in this way, if it appears that the managers of a savings bank, by keeping permanently uninvested an undue proportion of the moneys received by them, are violating the spirit of the rule allowing them to keep temporary deposits pending a chance to invest (1906, chap. 195, 37). If the proceedings by the attorney-general are directed toward declaring the savings bank insolvent, or placing it in the hands of a receiver, then the chancellor of the State may take charge of the savings bank and manage it (1906, chap. 195, 57). If a savings bank, a majority of its managers, or three or more depositors holding deposits of $5,000, petition, showing that the bank is insolvent, the chancellor causes an examination to be made or a report to be rendered, whereupon he may make decrees forbidding payments of deposits, etc. (1906, chap. 195, 58). From then on the chancellor has control over the savings bank and directs the action of its managers (1906, chap. 195, 59). If under this control the bank, after a sufficient time, still appears unable to return its deposits and pay its debts, then the chancellor stops its business and appoints a receiver. He orders a final distribution of assets and adjudges whether the charter of the bank is void or not (1906, chap. 195, 60). During the proceedings the chancellor may always order the reception of new deposits, keeping the investments of them wholly for the benefit of those depositing (1906, chap. 195, 61).

The commissioner has supervision over voluntary dissolutions (1906, chap. 195, 63 *et seq.*).

REPORTS.

A statement of the names and residences of officers and location of the proposed bank is transmitted to the com-

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missioner before any deposits are received (1906, chap. 195, 13). The managers, by a committee of not less than three of them, examine the affairs of their savings bank and report the result at the close of business of each calendar year; this report to the commissioner is made in January in the form he prescribes. It states the amount loaned upon bond and mortgage; a list of all bonds and mortgages upon which interest has been in arrears for six months; the value of all investments with items; the amount loaned upon pledge of securities; real estate investments with values; cash on hand and on deposit; with names of depositaries and amounts deposited in each. Also all liabilities, including the amount due depositors, with dividends, and any other debts or claims chargeable upon assets; the amount of deposits during the year; the amount withdrawn; interest or profits received or earned; dividends credited to depositors; number of accounts opened and reopened; number closed; number open at the end of the year; and other reasonable information that may be required by the commissioner (1906, chap. 195, 42, 43, 44 and 45). The commissioner may call for special reports when he thinks them necessary (1906, chap. 195, 47). When a receiver of a savings bank has been appointed by the chancellor he reports to the chancellor every three months (1906, chap. 195, 62).

Dividends declared by the managers or the receiver of an insolvent savings bank, that are unclaimed for a year, are published once a week for four weeks (1906, chap. 195, 29). Every savings bank includes in its annual report to the commissioner a statement containing the name of every depositor who has not dealt with his deposit for ten years and whose deposits exceed $50; the report includes also the amount to the credit of such a depositor, his last known address, and the fact of his death, if known. This report is published by the savings

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bank once a week for three weeks for two successive years (1906, chap. 195, 30).

The commissioner of banking and insurance makes an annual report to the legislature containing a statement of the condition of every savings bank that has reported during the preceding year; the name and location of new savings banks authorized; the date of their incorporation; and a particular description of those which, whenever incorporated, have begun business during the preceding year (1906, chap. 195, 50). The results of all examinations during the previous year are embodied in the annual report to the legislature (1906, chap. 195, 51), and also the returns by savings banks of deposits that have not been disturbed for ten years (1906, chap. 195, 31).

EXAMINATIONS.

The managers, by a committee of not less than three of them, examine the condition of their savings bank to show its condition on December 31 of each year, on which examination their annual report to the commissioner is based (1906, chap. 195, 42). The commissioner personally or by a subordinate examines every savings bank at least once in two years, and oftener if he thinks it necessary (1906, chap. 195, 51). If a savings bank, a majority of its managers, or any three or more depositors whose deposits together amount to $5,000 or more, petition the court of chancery, the chancellor must make an examination (1906, chap. 195, 58).

V.—Discount, Loan and Deposit Restrictions.

No manager or officer of a savings bank may directly or indirectly borrow its funds or deposits, nor become surety for any money borrowed from the savings bank (1906, chap. 195, 20). No savings bank may loan its deposits

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on notes, bills of exchange, or drafts, except upon the additional pledge of collateral of the same sort as that in which investments are allowed, or the stock of national and state banks, or the stock or bonds of other New Jersey corporations which have not defaulted in interest or dividends on the collateral loaned upon, within two years. Even when secured, the loans must not exceed 80 per cent of the market value of the collateral and the total of such loans must not exceed 15 per cent of the total deposits of the bank (1906, chap. 195, 34).

The deposits to the credit of any one individual or corporation must never exceed $5,000, exclusive of accrued interest, except in the case of deposits ordered by a court. Savings banks need not receive sums less than $1, nor need they allow interest on fractions of a dollar or for fractions of a month (1906, chap. 195, 25).

VI.—Investments.

Moneys deposited with savings banks may be invested only as follows: First, in securities of the United States. Second, in interest-bearing bonds of New Jersey, or those authorized to be issued by any commission appointed by the supreme court of New Jersey. Third, in the bonds of any State which has not within ten years defaulted in principal or interest of any debt. Fourth, in the bonds of any municipality of New Jersey, if it has not defaulted in principal or interest on any debt for five years, and if certain other requirements are satisfied. In any interest-bearing obligations except improvement certificates issued by the municipality in which the bank is situated. Fifth, in the bonds of cities or counties of other States, provided the city or county has not defaulted in principal or interest for ten years, and the total indebtedness is limited to 10 per cent of the valuation for taxes. Sixth, in first

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mortgage or consolidated mortgage bonds of any railroad company which has paid dividends of 4 per cent on its entire capital stock for five years. Seventh, in bonds secured by mortgages that are a first lien on New Jersey real estate worth double the amount loaned, but not more than 80 per cent of all deposits may be thus invested, and in case the loan is on unimproved or unproductive real estate the loan must be of not more than 30 per cent of its value. Loans on bond and mortgage must be approved by a committee of at least three managers. Eighth, in real estate as follows: A plot on which is a building required for the convenient transaction of the company's business, from some portion of which rent may be derived, but the cost of the building and lot must not exceed 50 per cent of the net surplus of the bank unless the commissioner approves; land purchased at judicial sales on debts due the savings banks, or taken in settlement to secure such debts, but all real estate thus acquired must be sold within five years (1906, chap. 195, 33).

Savings banks must not trade in personalty except such as is necessary for the transaction of the bank's business. The business of buying and selling exchange, selling or collecting commercial paper, etc., must not be engaged in in the bank (1906, chap. 195, 68).

To meet current expenses, an available fund of not exceeding 10 per cent of all deposits may be kept on hand or on deposit in solvent state or national banks in New Jersey, or may be deposited on call at interest in such solvent trust companies of New Jersey, New York, or Pennsylvania, or in such solvent national banks of New York or Pennsylvania as the managers direct. The fund, moreover, may be loaned on pledge of the securities which are legal investments, provided the loan does not exceed 80 per cent of the value of the securities (1906, chap. 195, 36,

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amd. by 1908, chap. 203). Temporary deposits may be made of the excess of daily receipts over payments pending an opportunity to invest (1906, chap. 195, 37).

X.—Unauthorized Banking.

Only such corporations as are authorized by law to receive deposits as savings banks may advertise or solicit deposits as such a bank. Any one offending against these provisions forfeits $100 for each offense each day that it is continued (sec. 46, of the act approved Apr. 21, 1876).

Savings banks incorporated under other laws than those of New Jersey are allowed to do business in New Jersey only to the extent that the government incorporating them allows in its territory savings bank business to be done by New Jersey savings banks (1907, chap. 35).

XI.—Penalties.

Failure to furnish reports subjects the managers personally to a penalty of $100 a day (1906, chap. 195, 48). The officers of a savings bank who fail to make a return of unclaimed deposits are guilty of a misdemeanor and liable to a fine of not more than $500 (1906, chap. 195, 32). A receiver of an insolvent savings bank who fails to report is removed from his office (1906, chap. 195, 62). Managers or other officers who make illegal investments or loans are guilty of a misdemeanor, punishable by a fine of from $250 to $1,000 or imprisonment for not longer than two years (1906, chap. 195, 35). As in the case of banks, it is a misdemeanor to spread rumors affecting the financial standing of a savings bank (1907, chap. 50).

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TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies have authority "to receive money on deposit to be subject to check or to be repaid in such manner and on such terms and with or without interest as may be agreed upon" (1899, chap. 174, 6).

The capital must be not less than $100,000, divided into shares of $100 each, all of which must be paid in in cash before the company begins business. Trust companies must not create more than one class of stock (1899, chap. 174, 1). The commissioner of banking and insurance does not authorize incorporation unless it appears to him that the establishment of the proposed trust company will be of public service (1899, chap. 174, 3).

Dividends may be declared out of net profits, but before the declaration not less than one-tenth of the net profits for the preceding dividend period must be carried to a surplus fund until it amounts to 20 per cent of the capital stock (1899, chap. 174, 13).

Trust deposits must not be mingled with the general assets or deposits of the corporation; they are not liable for its general debts (1899, chap. 174, 7).

II.—Liabilities and Duties of Stockholders and Directors.

There is no particular provision for liability of trust company shareholders.

There must be not less than five directors, each of whom must own not less than five shares of stock (1899, chap. 174, 12, amd. by 1906, chap. 191). The directors must appoint an examining committee to make examinations explained below (1899, chap. 174, 14).

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III.—Supervision.

The commissioner of banking and insurance supervises trust companies (1899, chap. 174, 2). Before acting as trustee, each trust company must deposit with the register of the prerogative court certain securities (1899, chap. 174, 9, amd. by 1903, chap. 214). The commissioner allows a trust company to be incorporated only if he thinks its establishment will be of public service (1899, chap. 174, 3).

When it appears to the commissioner from a report or examination that the affairs of a trust company are rendered unsound by unsafe investments, or that its liabilities exceed its assets, or that it is violating the law, or that it is inexpedient for it to continue business, then the commissioner notifies the attorney-general, who institutes proceedings as against an insolvent trust company, or such other proceedings as the case requires. If upon examination the commissioner has reason to think that the trust company is in an unsound condition, he may take possession of the company's business until the termination of the proceedings by the attorney-general, or until the appointment of a receiver (1899, chap. 174, 22). If a trust company refuses to submit its affairs to examination, the attorney-general, on notice by the commissioner, may proceed as against an insolvent trust company. If it appears to the commissioner that a trust company has violated law or is conducting its business unsafely, he directs the discontinuance of the practices, and if the company fails to comply with his order, proceedings as against an insolvent trust company are instituted (1899, chap. 174, 23). If a trust company becomes insolvent or suspends business for want of funds, the attorney-general or a creditor or stockholder may petition the court of

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chancery for an injunction and the appointment of a receiver; the court, if satisfied that the company is insolvent and can not resume business safely, may issue injunctions, etc.; or if on petition it appears to the court, on application of the attorney-general, that a trust company is being unsoundly conducted or that its liabilities exceed its assets, that it has violated the law, that it refuses to be examined, or that it is inexpedient to allow it to do business, etc., then injunctions may issue and a receiver may be appointed (1899, chap. 174, 24 and 25, amd. by 1906, chap. 157).

REPORTS.

Every trust company makes to the commissioner of banking and insurance not less than two reports each year, according to the form prescribed by him, showing the condition of the corporation at the close of business on a past day specified by the commissioner. This report must be transmitted to him within twenty days after the receipt of his request, and a summary must be published in a local newspaper. The commissioner may call for special reports (1899, chap. 174, 16).

The commissioner makes an annual report to the legislature embracing a statement of proceedings taken against trust companies, of new companies organized, and a summary of all trust company reports (1899, chap. 174, 27).

EXAMINATIONS.

The commissioner or a subordinate makes an examination of the affairs of every trust company whenever he deems it expedient or at the request of the trust company (1899, chap. 174, 21). The board of directors of every trust company appoint from the members of the board an

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examining committee to examine the company at least every six months, and oftener if required by the board, with special reference to assets which seem to be not of the value at which they are stated on the books of the company (1899, chap. 174, 14).

IV.—Reserve Requirements.

Every trust company receiving deposits that are subject to check or payable on demand must keep in available funds an amount equal to 15 per cent of demand liabilities. Four-fifths of this reserve may consist of balances due from good solvent banks or trust companies, and one-fifth must be in cash. When the reserve falls below, the trust company must not make any new loans except by purchasing sight exchange, nor make any dividends of its profits (1899, chap. 174, 20).

V.—Discount and Loan Restrictions.

No trust company has power to discount commercial paper, nor to make loans on bills, notes, or other evidences of debt except to a New Jersey municipality, unless the loans are secured by mortgage upon lands, or by other securities whose market value exceeds by 10 per cent the amount of the loan (1899, chap. 174, 7). No trust company may loan to its officers, directors, or employees until the board of directors or the executive committee has approved of the loan by a majority vote. No trust company may permit its officers, directors, or employees to become liable to it by reason of overdrawn account (1899, chap, 174, 15). No trust company may loan on the security of its own shares unless acceptance of this security is necessary to prevent loss on a previous debt. Stock so acquired must be disposed of within a year (1899, chap. 174, 18).

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VI.—INVESTMENTS.

Among trust company powers is the power to hold all real property necessary for the convenient transaction of the company's business, and real property acquired in satisfaction of debts under judgment, mortgage, etc., or in settlement of debts. Trust companies also may buy and sell stocks, promissory notes, bonds, mortgages, and other securities (1899, chap. 174, 6). No trust company may purchase or hold shares of its own stock unless the purchase is necessary to prevent loss upon a previous debt, in which case the stock must be disposed of within a year (1899, chap, 174, 18).

VII.—OVERDRAFTS.

No trust company may permit its officers, directors, or employees to become liable to it "by reason of overdrawn account" (1899, chap. 174, 15).

X.—UNAUTHORIZED TRUST COMPANY BUSINESS.

No corporation may be organized to do a trust company business in New Jersey except under chapter 174 of 1899, and no company organized under any other act may use the word "trust" as part of its name (1899, chap. 174, 1). Trust companies incorporated under other than New Jersey law are allowed to do business in New Jersey to the extent that New Jersey trust companies are allowed to do business in the incorporating State (1907, chap. 35).

XI.—PENALTIES.

Any officer, director, or employee of a trust company who is implicated in a loan to an officer without the consent of the directors, or an overdraft by an officer (1899,

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chap. 174, 15); any person who maliciously circulates false rumors affecting the financial condition of a trust company (1907, chap. 50); and any director, officer, or employee who makes false entries, false reports, etc., with intent to deceive an examiner, or subscribe to or make false reports, is guilty of a misdemeanor, and in the last case of a high misdemeanor (1899, chap. 174, 17). Every trust company which fails to report is subject to a penalty of $100 a day (1899, chap. 174, 16).

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NEW MEXICO.

The latest revision of the laws of the Territory of New Mexico was published in 1897. Title 3, beginning at page 157, deals with "Banks and banking." There are various amendments to sections in this title in the session laws of 1899, 1901, 1903, 1905, and 1907. Transcripts of two statutes of 1909, chapters 96 and 133, have been procured from the territorial banking officials, who state that these are the only 1909 laws which affect the digest; they are digested under the proper headings. The title on banks and banking in the Compiled Laws is divided into two parts, the first dealing with banks of discount and deposit and based chiefly on a statute of 1884, the second dealing with savings banks and based entirely upon a statute of 1887. These two halves of the title seem quite independent and conform to the plan of the digest, in treating first of banks and then of savings banks. Trust companies are legislated for in chapter 52 of 1903. It is worth noting that the savings bank statute, in its first section, provides for the incorporation of "savings banks and trust associations," but in the light of the complete and more recent legislation on trust companies, it seems unreasonable to consider the savings bank statute as possibly applicable to trust companies. Chapter 54 of 1903 transfers the supervisory duties with respect to banks and savings banks formerly incumbent upon the

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secretary and the treasurer of the Territory to a new officer created by the act and called "the traveling auditor and bank examiner." Since chapter 54 of 1903 shifted to the traveling auditor and bank examiner only those supervisory duties which had been in the hands of the secretary and the treasurer of the Territory, it was doubtful if under that statute the auditor, who had exercised supervision over trust companies, could properly be deprived of his former powers; chapter 96 of 1909, however, provides in section 9 that trust companies are to be placed "under the direct supervision of the bank examiner." On the strength of this provision the digest even with respect to trust companies treats the traveling auditor and bank examiner as the only supervisory officer. Chapter 96 of 1909 refers to the official simply as "the bank examiner;" his full title as stated above is, under the act establishing the office, "traveling auditor and bank examiner." References in the digest, where they are simply numbers in parenthesis, are to sections in the Compiled Laws; later statutes are referred to by year of passage, chapter, and, where necessary, section.

BANKS.

I.—Terms of Incorporation.

The capital of "a bank of discount and deposit" must not be less than $30,000, and before the bank begins business at least 50 per cent must be paid in in cash; the remainder must be paid in in cash within a year (244).

The directors, semiannually or oftener, on the first Monday in January and July, may declare a dividend, but only out of net profits (250). No dividends are payable

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on shares whose holders are liable, on debts past due, to the bank (247).

In towns of less than 1,500 inhabitants corporations may be organized for trade and business, which may, in addition, transact a general banking business. These corporations must have a capital of not less than $30,000, of which not less than $20,000 must be paid in before banking is begun. The right to transact a banking business, moreover, is not continued beyond a year unless the whole of the capital is paid up within that time. Existing corporations in cities or towns of less than 1,500 inhabitants may take advantage of the statute allowing incorporation for these combined purposes when their capital stock has been paid in in accordance with the act; such corporations must, however, be capitalized at not less than $30,000. The accounts of the banking business must be kept separate from those of the regular mercantile business (1903, chap. 109).

II.—Liabilities and Duties of Stockholders and Directors.

The officers and stockholders of banking corporations are individually liable for all debts contracted during the term of their being officers or stockholders "equally and ratably to the extent of their respective shares of stock in any such corporation or association," except that the liability ceases one year from the date of transfer of stock (252). A shareholder has no vote while his obligations held by the bank are past due (246).

There must be not more than nine directors, elected annually (246). If a report is not made within a month of the time it is due, or if the bank wilfully violates the statute, the directors become liable personally for all debts contracted previous to and during the neglect (251).

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III.—Supervision.

The official charged with the supervision of banks is the "traveling auditor and bank examiner," who is appointed by the governor for terms of two years, must be a skilled accountant, and receives a salary of $2,000 a year with $1,200 additional for expenses (1903, chap. 54, 1). All the duties formerly put upon the secretary or treasurer of the Territory with respect to banks, savings banks, and trust companies now belong to the traveling auditor and bank examiner (1903, chap. 54, 9). If it appears to him that any bank is insolvent (as defined in 1909, chap. 96, 7) it is his duty to report to the governor, who, if it appears that such a proceeding is necessary, directs the bank examiner to take charge of the bank and of its property. The examiner thereupon makes a thorough examination and reports to the governor, who, if satisfied that the bank can not resume business or liquidate its debts to the satisfaction of its creditors, advises the attorney-general to institute proceedings for a receiver. The bank examiner with the governor's consent may appoint a deputy to take charge of an insolvent bank pending the appointment of a receiver, no bank, however, to remain in charge of a deputy longer than ninety days (1909, chap. 96, 4). A bank may voluntarily place its affairs under the control of the examiner by posting a notice on its doors (1909, chap. 96, 5). If it appears that the capital of a bank has been impaired, the examiner notifies the bank to make the impairment good in ninety days (1909, chap. 96, 8).

Reports.

Banks make semiannual reports in January and July in the form prescribed by the traveling auditor and bank examiner, which reports show resources and liabilities

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at the close of business on a past day specified by the examiner, and must be transmitted to him within five days after his request. They must be published in a local newspaper (1909, chap. 96, 1).

The foregoing late enactment seems to supersede the section formerly in force, which, after providing for the declaration of dividends "semiannually or oftener, as they (the directors) may elect, on the first Monday in January and July," proceeded: "On each of such days the president or cashier shall make" a full statement to the bank examiner of the condition of the bank "on that day after declaring the dividend, if any be declared." The statement was required to contain a full abstract of the accounts of the bank so as to show its resources and liabilities. It was published once a week for three weeks in a local newspaper (250, and 1903, chap. 54, 9).

The bank examiner reports to the governor all his official doings as examiner, embodying in his report an abstract of the condition of the assets and liabilities of the institutions under his charge, with general suggestions and recommendations (1903, chap. 54, 11).

Banks which have in their possession money against which no check has been drawn, or of which no other disposition has been made, by the owner within three years, must annually publish for six days in a local newspaper a list of the names of such depositors, with the amount to the credit of each, etc. (1899, chap. 62).

For reports required for purposes of taxation see 257, *et seq*, with amendments in 1907, chap. 103.

EXAMINATIONS.

The bank examiner visits each bank doing business in New Mexico except national banks at least annually, and oftener if necessary, in order to make a full investigation into its condition (1909, chap. 96, 2).

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This late enactment does not materially change the older one under which he was required to visit "each of the banking, savings, and other moneyed corporations created under the laws of the Territory" and thoroughly examine it at least once a year, verify the validity and amount of its securities and assets, and inquire into its observance of the law (1899, chap. 54, 6). A provision of the Compiled Laws provided that the secretary of the Territory (whose duties have now devolved upon the bank examiner under 1903, chap. 54, 9, and 1909, chap. 96, 9) might at any time appoint a suitable person to examine "any corporation incorporated under this act (the savings bank statute) or any other law of this Territory," or might make such an examination himself to determine the truth of any statement made by the bank or to determine its solvency and the character of its assets (280).

Under the 1909 statute the bank examiner upon taking charge of a bank must examine its affairs before receivership proceedings are instituted, and may make an examination of any bank which is voluntarily liquidated (1909, chap. 96, 4 and 6).

V.—Discount and Loan Restrictions.

Any bank of discount and deposit may "carry on the business of banking by discounting on banking principles upon such securities as the directors or trustees shall deem expedient, * * * by loaning money on personal security and by exercising such incidental powers as may be necessary to carry on such corporation, association, or business" (246).

The savings bank statute contains provisions for the maximum amount of individual loans and for curtailing loans to directors and officers (276); but there seems no reason to suppose that these provisions are applicable to commercial banks. The stockholders collectively of any

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bank must never be liable, either as principal or surety or both, to an amount greater than two-fifths of the paid in and unimpaired capital (253).

No bank may take as security a lien on any part of its capital; the same security is required of shareholders as of others (244).

For provisions for deposits of territorial moneys see 255.

VI.—Investments.

A bank may carry on its business "by buying or selling the bonds or stocks of this or any other State or Territory, or of the United States; also the bonds of any county, city, town, or school district in this Territory legally authorized to issue such bonds; gold and silver bullion; foreign coins and bills of exchange" (246).

It is lawful for a bank to hold real estate only for the following purposes: Such as is necessary for its accommodation in business; such as is mortgaged to it for previous loans; such as is conveyed to it in satisfaction of previous debts; and such as it purchases under judgments or mortgages held by it; but at such a sale the bank must not bid more than necessary to satisfy the debt and costs (248 and 249).

No bank may "be the holder or purchaser" of its own stock or the stock of any other corporation unless the purchase is necessary to prevent loss on a previous debt contracted on security which was thought adequate at the time; stock so purchased must not be held for longer than six months if it can be sold for what it cost or at par (244).

VIII.—Branches.

The only hint on this subject is that contained in the requirement of a certificate by the incorporators, which must state "the place where the operations of discount

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and deposits of such banking corporation or association are to be carried on, designating the particular county, city, or town, at which place such association shall keep an office for the transaction of its business" (245).

X.—Unauthorized Banking.

It is unlawful for persons, companies, or associations other than national banks to carry on a banking business in New Mexico without compliance with the provisions of the bank statute. Contracts made with banks doing business in violation of the statute are void (254, amd. by 1899, chap. 40).

XI.—Penalties.

Any officer of "any banking, moneyed, or savings institution or other moneyed corporation of this territory" who fails to furnish reasonable facilities to the examiner is guilty of a misdemeanor, punishable by a fine of not less than $500, imprisonment for not less than six months, or both (1903, chap. 54, 8). Any person who refuses the examiner access to books or papers or who hinders the complete examination of such an institution is also guilty of a misdemeanor, punishable by the same penalties (1903, chap. 54, 10). A failure by "any banking house" to comply with the provisions of the act requiring reports of unclaimed deposits to be published renders each director and managing officer guilty of a misdemeanor, punishable by six months' imprisonment (1899, chap. 62, 3). Failure to make a regular semiannual report is punishable by fine of $50 a day (1909, chap. 96, 1). Failure by the proper officer of any bank to make the report required for taxation purposes entails a forfeit of $1,000 (258).

If the president, director, or other officer of any banking institution is implicated in receiving a deposit, or in the creation of any debt by his bank in consideration of which

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money or property is received into the bank, after he has knowledge that the bank is insolvent or failing, he is guilty of larceny (254, amd. by 1899, chap. 40). See also Savings banks, XI, for the sections of the savings bank statute, which provide for these offenses (282 and 283); these sections seem to be applicable to banks, as well as savings banks, for they forbid the officers of "any bank or banking institution organized or doing business under the provisions of this act or of any law of this territory" to receive deposits during insolvency, and provide the penalty for this offense when committed by officers "of any bank or banking institution."

SAVINGS BANKS.

I.—Terms of Incorporation.

The first of the sections headed in the Compiled Laws "Savings banks" provides for the incorporation of "savings banks and trust associations," the capital of which must not be less than $30,000, except in cities and towns of less than 3,000 inhabitants, in which the capital must not be less than $15,000. All the capital must be paid in in cash before business is begun (260, amd. by 1901, chap. 56).

Each savings bank must create a surplus from its net earnings by setting apart at least 10 per cent of them semiannually until the surplus amounts to 40 per cent of capital (268). The directors may, in January and July, declare a dividend, if it has been earned, provided the savings bank is fully solvent without the earnings which it is proposed to divide; no dividend may be declared when the capital is impaired so as not to be worth in good resources the full amount paid in after the payment of all liabilities, nor when the provisions respecting surplus fund have not been fully complied with (266). No divi-

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dends may be paid on stock the holder of which is liable on debts past due to the savings bank; dividends must be applied to discharge the liabilities (265).

A savings bank may issue and negotiate its own evidences of indebtedness to an amount not exceeding 90 per cent of the aggregate of the loans made and held by the savings bank and secured by mortgages of real estate (263).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of a savings bank "shall only be individually liable to the extent of the par value of the shares of stock subscribed for by them" (273).

There must be not more than nine directors (264). Any director who assents to declaring and paying a dividend while the capital is impaired is personally liable to the amount of his proportion of the dividend if losses occur on account of its payment (266). If a savings bank fails to make required reports or wilfully violates the savings bank statute, the directors are personally liable for bad debts contracted previous to and during the period of the neglect (272). Directors or other officers who are implicated in receiving deposits or creating debts with knowledge of the insolvency of the bank are individually responsible for the deposits received or the debts created (282).

III.—Supervision.

The same official is in control of savings banks (see Banks, III) as of banks.

See Banks, III, for the provisions of the 1909 statute which require the examiner to report the insolvency of a bank to the governor and institute receivership proceedings, appointing a deputy to act as temporary receiver if necessary; also for the provisions allowing a bank to place

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itself voluntarily in the hands of the examiner; and for those under which the bank examiner requires impairment of capital to be made good within ninety days (1909, chap. 96, 4, 5, and 8). It is not altogether clear that these provisions are applicable to savings banks; the statute states that "for the purpose of examination and regulation the provisions of this act are hereby made applicable and extended to trust companies, banks, building and loan associations, and all territorial institutions; it is the intent and purpose by this section to place these institutions under the direct supervision of the bank examiner" (1909, chap. 96, 9). There is an older provision for action by the examiner when he considers a corporation in an unsafe condition to continue business, which, if not superseded by the 1909 act, applies clearly to savings banks. It provides for action by the examiner, culminating in the appointment of a receiver (280, and 1903, chap. 54, 9).

Other provisions of the Compiled Laws, probably still effective, enact that when the capital of a savings bank is impaired to the extent of 25 per cent by reason of bad loans or otherwise the savings bank must cease to do business unless its capital is made good by assessment within sixty days or reduced to offset the impairment (266).

REPORTS.

See above, under Supervision, for the possible application of chapter 96 of 1909 to savings banks. Under that chapter "all banks heretofore or hereafter organized under the laws of the Territory, including private banks," must make semiannual reports in January and July in the form prescribed by the examiner, exhibiting resources and liabilities at the close of business on a past day specified by the examiner, reports to be transmitted within five

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days after the request and to be published in a local newspaper (1909, chap. 96, 1). If the language of chapter 96 of 1909 does not make this provision for reports applicable to savings banks, the provisions of the following paragraph cover the point:

The directors of a savings bank must, semiannually, in January and July, and whenever any dividends are declared, make a full statement to the bank examiner of the condition of the savings bank on that day, after the dividend, if any, has been declared; the statement must show fully the general accounts of the corporation and its resources and liabilities with details, and must be published once a week for three weeks in a local newspaper (269, and 1903, chap. 54, 9). The bank examiner may call upon any savings bank to make such a statement at any time, though it be more than the second time within a year; he must give no notice to anyone of the day on which he will call for such a statement, which must show the actual condition of the bank at the close of business upon a designated day prior to the call (270, and 1903, chap. 54, 9).

The examiner makes a written report to the governor as stated under Banks (1903, chap. 54, 11).

The statute requiring the publication of reports of unclaimed deposits (see Banks, III) applies to "all national and territorial banks having banking houses in this Territory" (1899, chap. 62).

For reports for purposes of taxation see 1903, chapter 103.

EXAMINATIONS.

Under chapter 96 of 1909 the bank examiner must "visit each and every bank doing business in the Territory of New Mexico except national banks" at least once a year, and oftener if necessary, to make full investigation into its condition (1909, chap. 96, 2).

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The older provision for examinations at least once a year by the traveling auditor and bank examiner (see Banks, III) includes savings banks. It particularly requires, with respect to savings banks, that he examine the validity of the mortgages they hold (1903, chap. 54, 6). A provision of the savings-bank statute in the Compiled Laws is that the secretary of the territory (whose duties have now devolved upon the bank examiner—1903, chap. 54, 9) may appoint some one to make examination of a savings bank, or make the examination himself, to determine the truth of any statement made under the provisions of the act or to determine the solvency of the savings bank and the character of its assets (280).

If savings banks are subject to the regulation features of chapter 96 of 1909, the bank examiner, when he has taken charge of a savings bank as insolvent, makes a thorough examination, and also may examine banks in voluntary liquidation (1909, chap. 96, 4 and 6).

V.—Discount and Loan Restrictions.

A savings bank may conduct the business of "loaning money upon real estate or personal property and upon collateral, personal, or live-stock security, at a rate of interest not exceeding that allowed by law; and also of buying, selling, and discounting negotiable and unnegotiable paper of all kinds, as well as all kinds of commercial paper" (262).

No savings bank may loan its money to any individual or corporation, directly or indirectly, or permit any individual or corporation to become at any time indebted to it in a sum exceeding 10 per cent of its paid-in capital, or permit a line of loans to any greater amount to any individual or corporation; nor may a savings bank hold the name of any of its directors or officers as principal or

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surety upon paper, or to an amount greater than 5 per cent of its capital, unless the borrower deposits with the savings bank collateral security or executes a mortgage of personalty or realty (276).

No savings bank may accept improved real estate as security for a greater amount than 50 per cent of its value; nor unimproved real estate for a greater amount than 30 per cent; nor live stock for a greater amount than 40 per cent (277).

A savings bank may issue and negotiate its own evidence of indebtedness to an amount not exceeding 90 per cent of the aggregate loans made and held by the bank and secured by mortgages on real estate (263). Savings banks may deposit in New Mexico banks or national banks (275).

VI.—Investments.

Savings banks may conduct the business of "buying and selling gold, silver, coins of all kinds, uncurrent money; * * * and also the buying and selling of bonds and stocks of this or any other Territory or State, or of the United States; also the bonds or other evidences of indebtedness of any county, city, town, or school district in this or any other Territory or State legally authorized to issue such bonds or evidences of indebtedness" (262). No savings bank may employ its moneys in trade or commerce by buying and selling merchandise; but it may sell all kinds of property acquired as collateral or in the collection of debts (278).

A savings bank may hold real estate only as follows: First, a plot on which buildings requisite for its business are erected, from portions of which rent may be derived, the cost of the buildings and lot never to exceed 50 per cent of the net surplus of the bank; second, such real estate as the bank has purchased on foreclosure of

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mortgages owned by it or upon judgments for debts due it or in settlements to secure such debts. The second sort of real estate must be sold within five years (279).

A savings bank may deposit the moneys deposited with it, or its surplus funds or unemployed capital, in a New Mexico bank or a national bank (275).

VIII.—Branches.

The only intimation in the statutes on this subject is in the provision that the incorporators shall certify "the principal place where the business of such corporation shall be carried on, designating a particular county, city, or town at which place such corporation or association shall keep an office for the transaction of its business" (261).

XI.—Penalties.

If the president or other officer or director of a savings bank refuses to make statements required by the bank examiner, or makes a false statement, the offender is guilty of a misdemeanor punishable by fine for each offense of $100 to $500, or imprisonment for from one to twelve months, or both fine and imprisonment (271). If a savings bank or its officers or directors fail to publish a statement for one month beyond the time when it is required to be made, or willfully violate any provision of the savings bank statute, the directors become personally liable for bad debts contracted previous to and during the neglect (272). Every director and managing officer of a "banking house" which fails to publish unclaimed deposits is guilty of a misdemeanor, punishable by six months' imprisonment (1899, chap. 62, 3). The provisions given under Banks, XI, respecting penalties for failing to furnish facilities to the bank examiner (1903, chap. 54, 8) and those respecting penalties for refusing access to the

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bank examiner to books or papers (1903, chap. 54, 10) apply to savings banks. If savings banks are required to report semiannually under chapter 96 of 1909, they are subject to the penalty of $50 per day during any delay in making a report (1909, chap. 96, 1).

Any president, director, or other officer or agent of a bank organized or doing business under the savings bank statute or any law of the Territory who is implicated in receiving deposits or in the creation of debts by the institution with knowledge of its insolvency is individually responsible for the deposits or debts (282); one who willfully commits this offense and fails to make good the loss to the persons damaged within sixty days after the insolvency of the bank has been judicially determined is guilty of a misdemeanor punishable by fine for each offense of $100 to $500, or imprisonment of from one month to twelve months, or both fine and imprisonment (283). The provision on this topic given under Banks, XI, providing that such an offense shall be larceny, seems applicable to savings banks as well as to banks (254, amd. by 1899, chap. 40).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust company powers are enumerated in 1903, chapter 52, 3. A trust company may "receive upon deposit for safe keeping money and personal property of every description." A majority of the fifteen or more incorporators of a trust company must be residents of New Mexico. The capital actually subscribed in good faith at the time of filing the articles must be not less than $250,000, of which $100,000 must have been actually paid in lawful money (1903, chap. 52, 1 and 9). A 1909 amendment allows the incorporation of a trust company

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in any city, town, or village of less than 7,000 with an actually subscribed capital stock of not less than $100,000, of which not less than $50,000 must have been actually paid in (1909, chap. 133, 1 and 3).

Dividends may be declared semiannually or annually of so much of the net profits as the directors judge expedient, but before the declaration of the dividend at least one-tenth of net profits for the preceding half year or year must be carried to surplus fund until it amounts to 20 per cent of the paid-in capital. No dividend may be declared until at least $250,000 of capital has been paid in in the case of trust companies in communities of over 7,000; in those under 7,000, a trust company may not declare a dividend until its entire capital has been paid in. Dividends must never exceed net profits on hand (1903, chap. 52, 7, amd. by 1909, chap. 133, 2).

II.—Liabilities and Duties of Stockholders and Directors.

The shareholders of every trust company are individually responsible for its contracts to the extent of the amount of their stock at par in addition to the amount invested in the shares (1903, chap. 52, 15).

There must be not fewer than five directors, each the owner of not less than 10 shares of capital; a majority must be citizens of New Mexico. The term of office is regularly one year (1903, chap. 52, 17, amd. by 1903, chap. 115).

III.—Supervision.

The following provisions of chapter 96 of 1909 are applicable to trust companies: If at any time it appears to the bank examiner that a bank is insolvent he reports to the governor, who, if it appears that such a proceeding is necessary, directs the examiner to take charge; the exam-

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iner then examines thoroughly and makes a return to the governor, who, if satisfied that the company can not resume business or pay its debts, advises the attorney-general to proceed for a receiver, pending whose appointment the examiner may place the affairs of the company for not longer than ninety days in charge of a special deputy (1909, chap. 96, 4). A trust company may voluntarily place its affairs under the control of the examiner by posting a notice on its doors (1909, chap. 96, 5). When it appears that the capital of a trust company has been impaired, the examiner notifies it to make the impairment good within ninety days (1909, chap. 96, 8).

The provisions of the paragraph next following were law before the enactment of chapter 96 of 1909, with the powers and duties mentioned in the hands of the territorial auditor; since they seem not clearly repealed by chapter 96, they are inserted below with the examiner substituted for the territorial auditor. It is possible that this substitution may not be altogether justified by chapter 96, which provides in section 9 that "for the purpose of examination and regulation the provisions of this act are hereby made applicable and extended to trust companies; * * * and it is the intent and purpose of this section to place these institutions under the direct supervision of the bank examiner."

The examiner notifies any trust company whose reserve is below the requirement, and if the company fails to make the reserve good in sixty days, he may take charge, close the company's doors, make a thorough examination, and take such proceedings as the situation requires (1903, chap. 52, 10); he may act similarly whenever a trust company fails to report for a period of thirty days after the time the report is due (1903, chaps. 52, 11) or refuses to submit to examination (1903, chap. 52, 12), and whenever the capital of a trust

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company, having become reduced below the requirement, is not made good by assessment on the shareholders within three months of his requiring the deficiency to be repaired. When it appears to him that a trust company has violated its charter or any statute, or is conducting its business in an unsafe and unauthorized manner, he orders the company to discontinue these practices; and whenever, from a thorough examination of its affairs, it appears to him that it is unsafe for the company to continue business, he may take charge, close the company's doors, and report the facts to the governor, who must require proceedings to be instituted for the appointment of a receiver (1903, chap. 52, 15). Failure to sell within six months its own shares acquired under the provision permitting their acquisition to prevent loss on a previous debt, is ground for the appointment of a receiver (1903, chap. 52, 8).

The auditor of the Territory (probably now the examiner—1909, chap. 96, 9) has authority to designate reserve depositaries; apparently any national, state, or territorial bank may be a depositary and any trust company which he designates (1903, chap. 52, 10).

There is provision for a deposit of cash or securities on the strength of which a trust company may serve in a fiduciary capacity without giving a bond (1903, chap. 52, 6).

REPORTS.

Chapter 96 of 1909, applying under its express terms to trust companies, requires them to make semiannual reports in January and July to the bank examiner in the form which he prescribes, exhibiting resources and liabilities at the close of business on a past day specified by him, the report to be transmitted within five days after the request, and to be published in a local newspaper (1909, chap. 96, 1).

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Under previous legislation trust companies were required to report to the territorial auditor four times a year, showing in detail resources and liabilities of the company at the close of business on a past day specified by the auditor; each report was transmitted to him within fifteen days after the receipt of his request, and was published in a local newspaper. The auditor might call for special reports whenever they seemed necessary (1903, chap. 52, 11).

Receivers of trust companies report, when required, to the appointing court (1903, chap. 52, 15). See Banks, III, for report of bank examiner to governor (1903, chap. 54, 11). The publication of unclaimed deposits is not required of trust companies unless they can be brought within the description, "territorial banks having banking houses in this Territory" (1899, chap. 62). See 1907, chap. 103, for reports for taxation purposes required of all "joint stock associations doing a banking business."

EXAMINATIONS.

The bank examiner under the 1909 statute visits every trust company at least annually, and oftener if necessary, for the purpose of making a full investigation into its condition (1909, chap. 96, 2). He examines thoroughly when he takes possession prior to the institution of receivership proceedings (1909, chap. 96, 4); and he may examine in voluntary liquidations (1909, chap. 96, 6). The above provision for regular annual examinations is a parallel to the earlier legislation which required the examiner to visit at least once in each year without prior notice "each of the banking, savings, and other moneyed corporations created under the laws of the Territory" and thoroughly examine them (1903, chap. 54, 6). It seems to override, however, still another earlier statute which required the auditor semiannually and at such

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other times as he deemed necessary, to make a thorough examination into the affairs of every trust company either personally or through a suitable person appointed by him (1903, chap. 52, 12).

IV.—Reserve Requirements.

Every trust company must keep on hand in lawful money of the United States an amount at least equal to 15 per cent of its aggregate liabilities other than those for which a deposit with the State is required to be made.

Whenever its reserve falls below the requirement the corporation must not increase liabilities by making new loans, nor make dividends, until the reserve has been restored. The auditor may notify a trust company whose reserve is below the requirement to make it good, and if it fails for sixty days he proceeds as stated under Supervision. Three-fifths of the reserve may consist of balances due from any national, state, or territorial banks or from any trust companies designated by the auditor (1903, chap. 52, 10).

V.—Discount and Loan Restrictions.

Among trust company powers is that "to loan money upon real-estate, personal and collateral security" (1903, chap. 52, 3, amd. by 1905, chap. 78, 1). No trust company may loan or discount on the security of shares of its own stock, except to prevent loss on a previous debt, in which case the stock must be disposed of within six months. The total liabilities to a trust company of any person, firm, or corporation, including in firm or corporation liabilities those of the members, must never exceed 20 per cent of paid-in capital. The total liabilities of a director, officer, or employee to his company must never exceed 10 per cent of paid-in capital (1903, chap. 52, 8).

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Trust companies may become depositaries of territorial moneys to an amount not exceeding 40 per cent of their paid-up capital (1903, chap. 52, 16).

VI.—Investments.

Among trust company powers are those "to purchase, invest in, and sell all kinds of government, state, municipal, and other bonds and all kinds of negotiable and non-negotiable paper and other investment securities" (1903, chap. 52, 3, amd. by 1905, chap. 78, 1).

No trust company may purchase shares of its own stock, unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months (1903, chap. 52, 8).

A trust company may purchase or lease real estate for use in conducting its business; it may purchase real estate under its own foreclosure proceeding, judgment, or lien, or whenever it may be necessary to protect itself from loss, but such real estate must be sold as speedily as possible (1903, chap. 52, 20).

VIII.—Branches.

The articles of agreement must set out "the name of the particular city or town and county in which the business of the corporation is to be carried on" (1903, chap. 52, 1); the trust company statute contains no further hint with respect to doing business at branch offices.

XI.—Penalties.

Trust companies may only advertise their actually paid-in capital, surplus, and undivided profits, and not their authorized capital, unless it is fully paid up; the penalty for violating this provision is $100 to $500 for each offense (1903, chap. 52, 9). Failure to report entails a penalty

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of $50 a day (1903, chap. 52, 11, and 1909, chap. 96, 1). Refusal to submit to an examination entails a penalty of $1,000 on the corporation, and $500 on any particular officer or director who refuses (1903, chap. 52, 12). See also chapter 54 of 1903, which creates the office of traveling auditor and bank examiner; under that statute any officer "of any banking, moneyed, or savings institution or other moneyed corporation of this territory" who fails to furnish facilities to the traveling auditor and bank examiner at examinations, is guilty of a misdemeanor, punishable by fine of not less than $500 or imprisonment for not less than six months, or both fine and imprisonment (1903, chap. 54, 8), and any person refusing the traveling auditor and bank examiner access to books, etc., or hindering examination as required under the statute, is guilty of a misdemeanor punishable by the same penalties (1903, chap. 54, 10).

If the president, director, agent, etc., of a trust company embezzles or issues without authority any certificate of deposit, etc., or makes a false entry, report, or statement with intent to defraud the corporation or any other company or individual, or to deceive an officer of the corporation or an examiner, is, together with those who aid him, guilty of a misdemeanor, for which the penalty is imprisonment for from five to ten years (1903, chap. 52, 14).

The provision making it larceny to receive deposits while insolvent (see Banks, III) applies to every "banking institution" (254, amd. by 1899, chap. 40).

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NEW YORK.

The State of New York has a complete banking law containing general provisions, and provisions dealing with banks, with savings banks, and with trust companies separately. Individual bankers are, when they accept the benefits of the banking law, for the most part treated as banks are. There is separate legislation also for building and loan associations; cooperative loan associations; mortgage, loan, and investment corporations; safe deposit companies and associations for loaning money on personal property. The digest treats separately banks, savings banks, and trust companies, with as little repetition as possible, inserting the provisions applicable to all corporations subject to the banking act, only once, under "Banks." Elaborate provisions for circulation (secs. 83–106) are omitted. The legislature of 1909 enacted a new revision of the statutes of the State, known as the Consolidated Laws, of which the banking law is chapter 2; references, where they are merely numbers in parentheses, are to sections in that chapter.

BANKS.

I.—Terms of Incorporation.

The superintendent of banks, when the necessary formalities have been complied with by proposed incorporators, determines, weighing their character and fitness and the needs of the locality, whether it is expedient and

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desirable for them to incorporate as a bank (63). The capital of banks in villages not exceeding 2,000 must be not less than $25,000; in cities, villages, or towns exceeding 2,000 and not exceeding 30,000, it must be not less than $50,000; and elsewhere it must be $100,000 (60). The superintendent does not authorize beginning business unless it appears on examination that the requisite capital has been paid in in cash (12 and 68).

Bank directors may declare semiannual or quarterly dividends out of net profits, which are defined in 28 and 29; but before declaring a dividend a corporation must carry one-tenth of its net profits to surplus fund until the surplus amounts to 20 per cent of the capital (27).

II.—Liabilities and Duties of Stockholders and Directors.

It is a constitutional provision that the stockholders of all corporations "for banking purposes" are individually liable to an amount equal to that of the stock they hold for all the debts of their corporations (constitution, Art. VIII, sec. 7); bank stockholders are liable to the extent of the amount of their stock at par, in addition to the amount invested in the shares (71).

There must be not fewer than five directors of every bank. They must all be citizens of the United States, and three-fourths of them must be residents of New York. Each director must own at least $1,000 of the stock of his bank if the bank is capitalized at $50,000 or over, and if it is capitalized at less, $500 of its stock (69). The directors of all corporations, whether banks, savings banks, or trust companies, must meet once a month. They must appoint officers to report to them, or to a committee of not fewer than five of them, at each meeting, a statement of transactions between meetings, this statement to include purchases and sales of securities; dis-

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counts and loans of $1,000 and over, with items as to collateral; and, where the liability of an individual, firm, or corporation to the banking corporation has increased $1,000 or more since the last meeting, the name of the borrower with the collateral furnished by him (42). See below, under Reports, details of the semiannual reports and examinations made by directors.

III.—Supervision.

The superintendent of banks of the State, who is chief officer of the banking department, is appointed by the governor for terms of three years, and may not be interested in any banking institution; his salary is $7,000 a year (3). He may appoint three deputies, and clerks, examiners, etc. (5). The expenses of the department, including salaries, are prorated among the institutions subject to it (7, 158, etc.). No examiner may be appointed receiver of a bank he has examined (11). It is within the superintendent's discretion to determine if it is expedient and desirable that an application for incorporation as a bank be granted, taking into consideration fitness of incorporators and needs of the locality (60); also whether the density of population, convenience, responsibility of incorporators, etc., warrant the establishment of a savings bank as applied for (133 and 134); and also to settle similar questions in the case of an application for incorporation as a trust company (183). He passes on proposed changes of location (31), consolidations (36), and the advisability of branches (109 and 186). He approves of reserve depositaries (67 and 198). In case he believes that the capital stock of any corporation or individual banker is impaired he orders the deficiency made good in sixty days, whereupon the directors must assess the stockholders. If he believes the corporation is violating

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its charter or the law, or is conducting its business unsafely, he may order the practices discontinued (17).

If capital is impaired, or if the corporation refuses to submit to examination, violates its charter or the law, suspends payment, conducts its business unsafely, or if from an examination or report the superintendent concludes that it is unsafe or inexpedient for the corporation to continue business, he institutes, through the attorney-general, proceedings for a dissolution (18); failure to make two successive reports is ground for the same action (22). He then holds possession, through his regular or specially appointed deputies, till the corporation can resume business or be finally liquidated; the statute provides elaborately for the proceedings, proof of claims, payment of dividends, etc. (19). When the reserve of a bank, banker, or trust company falls below the required amount and is not made good after thirty days' notice, the superintendent proceeds as against an insolvent corporation (67 and 198).

The superintendent posts weekly in his office a detailed statement giving items of the banking department's work during the preceding week, including the names of corporations and bankers opening business, names of corporations opening branches, department appointments, resumptions of business, etc. These statements, even after removed from the superintendent's bulletin, must be accessible to any applicant (43).

Banks must keep with the department stocks of the State or of the United States amounting to $1,000, which are held by the superintendent as a pledge of compliance with the banking laws (76).

REPORTS.

Banks and individual bankers report to the superintendent at least once in every three months with respect to a

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date designated by the superintendent. The report includes whatever items the superintendent prescribes, in every case including the amount of those deposits payment of which is preferred in insolvency (21). It must be made within ten days of the designated date (22). Within ten days after each declaration of a dividend banks report facts concerning their net earnings, the state of their surplus, etc., to the superintendent (27).

Within thirty days after each regular quarterly report is made the superintendent publishes a summary in an Albany newspaper used by him for official notices; the summary contains specified items of the report, including capital, deposits, specie, securities held, etc., and such other items as are necessary to inform the public of the financial condition of the corporation or banker. The bank or banker publishes the summary in at least one local newspaper (24). Examiners report the result of each examination to the superintendent (11), who may, in his discretion, cause the report to be published (16).

Directors of all banking institutions receive itemized reports from an officer, at their monthly meetings, as stated under II (42). The directors of banks in April and October of every year must examine, or cause a committee of three of them to examine, the books and affairs of the bank, with reference particularly to loans and discounts, and the security given for them, and such other matters as the superintendent may prescribe. Within ten days after completing this examination the directors file a report in their bank and a duplicate in the banking department. The report contains a statement of assets and liabilities; a detailed statement of loans which in the directors' opinion are doubtful or worthless; a statement of loans insufficiently secured, specifying the amount of the loans and the collateral; a statement of overdrafts; and also a full statement of all matters affecting solvency (23).

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Deposits or other claims of $50 or more unclaimed for five years must be published for six weeks every year by the bank or banker with whom the deposit was made (30).

The superintendent submits annually to the legislature a report showing the condition of the corporations and bankers reporting to him, with totals summarizing the condition of them all; a statement of those authorized during the year to begin business, with facts about each; a statement of those who have stopped business during the year; suggestions for amendments to the banking law; and statistics of the banking department, its expenses, etc. (25). He must include also details with respect to liquidations, dividends in insolvent corporations that are unclaimed, etc. (19).

EXAMINATIONS.

The superintendent, personally or by an examiner, visits all banks, trust companies, and individual bankers twice each year. Inquiry is made as to the condition of the corporation, its management, investments, the security given its creditors, etc., its compliance with law, and such other matters as the superintendent may prescribe. He may require examinations more frequently if he thinks them necessary (8). An examination must be had at once if a report is not filed on time (22). There is a preliminary examination to make sure that capital has been paid in (12). When the superintendent believes capital is impaired, he may cause a special examination to be made to ascertain the amount of the deficiency (17). Creditors of any banking institution and shareholders whose debts or shares equal $1,000 or over may apply to court for an examination by a referee (20). See Reports, for the semi-annual examination made by directors, the result of which they report to the superintendent.

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IV.—Reserve Requirements.

For a bank or banker having principal place of business in a borough of 1,800,000 or over, the lawful money reserve, consisting of lawful money of the United States, gold certificates, silver certificates, or notes of national banks, must equal 25 per cent of the deposits, exclusive of deposits secured by bonds of New York State; for one with principal place of business in a borough of a population between 1,000,000 and 1,800,000 the lawful money reserve must be 20 per cent; for one with principal place of business elsewhere, 15 per cent. Banks located in boroughs of 1,800,000 or over may deposit on call two-fifths of the reserve in a bank or trust company which has a capital of at least $200,000, or a capital of $150,000 and a surplus of $150,000, and is approved by the superintendent as a depositary; banks located in boroughs of less than 1,800,000 and not maintaining a branch in a borough of 1,800,000 or over may deposit one-half; banks located elsewhere, three-fifths. While the reserve is below the requirement, no new loans or discounts may be made except by discounting sight exchange, and no dividends may be declared out of profits (67).

V.—Discount and Loan Restrictions.

(A) No bank or trust company may loan to any person, firm, or corporation an amount exceeding one-tenth of its capital paid in and surplus. This restriction upon the aggregate amount of loans is subject to the following exceptions, however: First, if the bank or trust company has its principal office in a borough of 1,800,000 or over, it may loan to any person, firm, or corporation a sum equal to not more than 25 per cent of its capital paid in and surplus on security worth at least 15 per cent more than the amount of the loans; and in smaller boroughs not more than 40 per

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cent on such security. Second, it may loan 10 per cent of its capital and surplus as first provided, and, beyond that, if located in a borough of 1,800,000 or over, a further sum not exceeding 15 per cent of capital and surplus on security worth at least 15 per cent more than the amount of the loans, or if located elsewhere 30 per cent upon such security. Third, purchases of commercial paper drawn in good faith against actual existing values, and discounts of paper owned by the person negotiating it may be made, up to 25 per cent of capital and surplus in the case of a bank located in a borough of 1,800,000 or over, and in the case of banks located elsewhere up to 40 per cent. Imposed upon all these exceptions, however, there is a general proviso that, with the exception of the liability of the United States or of New York, or of counties or cities in New York, the total liability of any one person, firm, or corporation to the bank must never exceed 25 per cent of the paid-in capital and surplus of the bank if its principal place of business is located in a borough of 1,800,000 or over, and must never exceed 40 per cent if it is located elsewhere.

(B) No bank or trust company may loan on the securities of corporations the payment of which is undertaken severally but not jointly by two or more individuals, firms, or corporations, first, if the borrowers or underwriters are obligated to buy the securities collateral to the loan and have not paid in cash a sum equal to 25 per cent of the amount that remains due on the purchase; second, if the bank or trust company making the loan is liable directly, indirectly, or contingently for its payment; third, if the loan is for longer than a year; or, fourth, if the loan exceeds 25 per cent of the capital and surplus of the lender.

(C) No bank, savings bank, or trust company may loan upon security of real estate on which there is a prior incumbrance, if the aggregate unpaid amount on prior in-

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cumbrances exceeds 10 per cent of the capital and surplus of the lender, or if the amount loaned plus the amount of the prior incumbrances exceeds two-thirds of the appraised value of the real estate. Any real-estate securities may be taken, however, to secure a loan previously made in good faith. No bank having its principal place of business in a borough of 1,800,000 or over may loan on real estate to an amount equal to more than 15 per cent of its total assets; no bank in a village of not over 1,500 in which there is no savings bank may loan to an amount equal to more than 40 per cent of its total assets; no bank elsewhere to an amount over 25 per cent.

(D) No bank, savings bank, or trust company, nor its officers, directors, or employees, may purchase commercial paper issued by the bank for less than its face value.

(E) No bank, savings bank, or trust company may deposit in another moneyed corporation, unless that corporation has been voted a depositary by a majority of the directors of the depositor corporation, exclusive of directors who are officers or directors of the depositary.

(F) No officer, employee, or person interested in the management of a bank, savings bank, or trust company may as an individual loan upon paper offered to the corporation and refused by it.

(G) No officer, director, or employee of a bank may borrow of his bank without the consent of a majority of the directors.

(H) No bank or trust company may accept as security its own shares, unless it is necessary to prevent loss on a previous debt; and in that case the stock must be disposed of within six months.

(I) No bank, savings bank, or trust company may loan on the security of the shares of another moneyed corporation so as to make the lender the holder of more than 10 per cent of the borrower corporation's stock (27).

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Banks may take interest at 6 per cent, but not more, except that exchange may be added when paper is taken which is payable at another place (74); and demand loans of not less than $5,000 made on warehouse receipts, bills of lading, stocks, bonds, etc., may draw interest at any rate agreed upon (75).

VI.—Investments.

Banks may own stocks or bonds of the United States and of the State of New York or any municipality of New York not in arrears, and may hold real estate for their necessary accommodation in transacting business, on mortgage to secure loans, on conveyances to satisfy previous debts, and on purchase under judgments or mortgages held by the bank (66).

No bank or trust company may purchase or hold its own shares unless it is necessary to do so in order to prevent loss on a previous debt; in such case the corporation must sell within six months (27).

VII.—Overdrafts.

Overdrafts are apparently allowed for both banks and trust companies, for they are an item required to be included in the April and October reports of directors (23). See also the provision in the Penal Law against overdrafts by officers, etc.—XI, *infra*.

VIII.—Branches.

Banks are not allowed to open branches except under the following restrictions: If the bank is located in a city of over 1,000,000 and its certificate of incorporation authorizes it, the bank may open branches in that city for business with the customers of the branch offices only; this is subject to the discretionary approval of the super-

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intendent, who passes upon the necessity and convenience of the branch. The capital of the bank must exceed the amount normally required by $100,000 for each branch opened under this law and by $50,000 for each branch opened before it was enacted (109).

IX.—Occupation of the Same Building.

No savings bank may do business or be located in the same room with any bank or national banking association, or in a room communicating with any bank or national banking association (27).

X.—Unauthorized Banking.

No person doing a banking business in New York, not subject to the supervision of the superintendent and not required to report to him, may use on a sign or on letterheads, etc., a name or other words indicating that the business is that of a bank; the penalty for violation is $1,000 (112). No bank may transact business without the certificate of the superintendent (32). No corporation, without being authorized by law, may receive deposits or make discounts; notes and other securities given to secure the payment of money loaned or discounted contrary to the provisions of this section, are void, and every person and corporation violating it forfeit $1,000 (107). No foreign corporation except a national bank is allowed to do deposit and discount business in New York (108).

See also these provisions of the Penal Law: Any person, association, or corporation other than a moneyed corporation, who transacts business under a corporate name containing the words "trust," "bank," or "savings," etc., is guilty of a misdemeanor (Penal Law, sec. 666). Any person doing banking in New York not subject to the supervision of the superintendent and not

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required by law to report to him, who uses an office sign having on it a name or other words indicating that the office is that of a bank, or who uses stationery, etc., having on it a name or other words indicating that the business is that of a bank, is guilty of a misdemeanor (Penal Law, sec. 302).

XI.—Penalties.

If a bank or individual banker delays a report after it is due, or omits required items, the penalty is $100 per day until the deficiencies are supplied. Failure to make two successive reports entails forfeiture of the right to do business (22). The penalty for failure of the directors of a bank to file their April and October reports is also $100 a day paid by the corporation (23). A bank failing to report unclaimed deposits forfeits $100 a day (30).

The penalty on a bank and its officers for maintaining a branch illegally is $1,000 a week so long as the branch is open without the superintendent's approval (109).

Section 27, restricting loans (see V), provides for penalties for violations of its restrictions: Any person violating D forfeits three times the face amount of the paper purchased; any person violating F forfeits twice the amount of the loan; any person violating G forfeits twice the amount borrowed; and any person or corporation violating H forfeits twice the nominal amount of the stock. The penalty for violating the subdivision relative to declaring dividends and maintaining a surplus is loss of charter (27).

The following penalties are provided in the Penal Law: A director of a corporation "having bank powers" who concurs in a vote of directors by which it is intended to make a loan or discount to a director or upon paper upon which a director is liable, to an amount exceeding

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that allowed by the statute; or a director, trustee, officer, or employee "of any corporation to which the banking law is applicable" who maintains or attempts to maintain a deposit of the corporation's funds with another corporation on condition that the depositary make a loan to any director, trustee, officer, or employee of the depositor; or any officer or employee "of any corporation to which the banking law is applicable" who conceals from or fails to report to the directors any discounts or loans or purchases or sales of securities between meetings of directors; or any director, officer, or employee "of a trust company" who makes any agreement on issuing a certificate of deposit whereby the holder may receive payment before maturity, is guilty of a misdemeanor (Penal Law, sec. 290). Any officer or agent "of any banking corporation" who makes a guaranty or indorsement on behalf of a corporation whereby it becomes liable beyond the legal amount is guilty of a misdemeanor (Penal Law, sec. 293). Any officer, director, or employee "of any bank, banking association, savings bank, or trust company" who knowingly overdraws his account and obtains the funds of the institution, or who asks or receives a consideration for procuring a loan from or a discount by the institution or for permitting any person, firm, or corporation to overdraw an account with the institution, is guilty of a misdemeanor (Penal Law, 294). Any officer, agent, etc., "of any bank, banking association, or savings bank," and any private banker who receives any deposit knowing that the bank is insolvent, is guilty of a misdemeanor if the amount of the deposit is less than $25, and of a felony if the amount of the deposit is $25 or over. The felony is punishable by imprisonment for from one to five years, fine of from $500 to $3,000, or both (Penal Law, sec. 295). Every

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director "of a moneyed corporation" who participates in a fraudulent insolvency or violates the law is guilty of a misdemeanor (Penal Law, sec. 297).

SAVINGS BANKS.

I.—Terms of Incorporation.

Thirteen or more persons, two-thirds of them residents of the county where the bank is to be located, may become a savings bank (130), subject to the superintendent's discretion in determining whether the convenience of the district and the responsibility of the incorporators warrant granting the application (133 and 134). The statute evidently contemplates associations without capital stock.

The trustees regulate the rate of interest or dividends, never over 5 per cent, so that the depositors receive the net profits of the savings bank. When the surplus that has accrued through the earning of profits over a 5 per cent dividend amounts to 15 per cent of the deposits, then the trustees may divide the accumulation equitably as an extra dividend; such disposal of surplus must be made at least once every three years (153). The statutes provide how the per cent of surplus shall be computed (154).

Prohibitions on borrowing are given under VI.

II.—Liabilities and Duties of Trustees.

There must be at least thirteen trustees, who must be residents of New York. No one may be a trustee who allows a judgment against him to remain unpaid for three months, or takes the benefit of a bankrupt or insolvent law, or makes a general assignment for creditors. A majority must not belong to the board of directors of any one bank or national bank (137). The trustee of a savings bank vacates his position when he becomes trustee, officer,

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or employee of another savings bank, or borrows from the funds of his own savings bank, or guarantees money borrowed of his own savings bank, or neglects his duties as trustee for six months without excuse (140). The trustees must meet monthly (139); and the provisions of section 42, concerning meetings of directors and trustees and reports to them, apply to savings banks. No trustee of a savings bank is permitted to have any interest in the profits of the bank, nor to receive payment for his services except when he is engaged in regular work for the bank; and the vote of the paid trustee may not be cast to determine his salary (142 and 155).

If the trustees of a savings bank vote more dividends than have been earned after deductions for expenses have been made, they are personally liable to the savings bank for the excess (153).

III.—Supervision.

The same superintendent, subject to the same general provisions as were enumerated in discussing banks, has supervision over savings banks. He proceeds against savings banks which have violated the law, or which refuse to allow an examination of their books, etc., as he does against banks (17, 18, 19, and 22). He may also proceed against savings banks which violate the spirit of the rule allowing them to deposit their funds pending good opportunities to invest (149). He approves savings bank buildings and changes of location, and may permit buildings and lot to exceed 25 per cent of surplus (147). He must approve all borrowing by savings banks and pledges of their securities (152).

Reports.

Savings banks report semiannually, before August 1 and February 1, to the superintendent, their condition on the

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mornings of July 1 and January 1, giving items of assets as follows: the amount loaned on bond and mortgage; a list of the bonds and mortgages, with the location of mortgaged premises not previously reported on; a list of such previously reported on as have been paid, wholly or in part, or foreclosed, with the amount of payments; the cost, date of purchase, date of maturity, rate of interest, par value, and estimated investment value of all stock or bond investments, designating each particular kind of stock or bond; the amount loaned on securities, with a statement of the collateral; the amount invested in real estate, giving its cost; the amount of cash on hand; the amount of cash on deposit, with what banks, and what amounts in each; and such other information as the superintendent may require. The statute provides how investment values are to be computed. Items of liabilities must include the amount due depositors, including dividends. General items must include: the amount deposited during the previous year and the amount withdrawn; the amount of interest or profits earned and the amount of dividends credited to depositors; the number of accounts opened or reopened; the number closed; the number open at the end of the year; and such other information as the superintendent may require (21). The regular semiannual reports must be published in a local newspaper (24). A savings bank may not receive deposits until it has sent the superintendent the names and addresses of its officers (135). The trustees receive monthly a report from a designated officer, as before stated (42). Proceedings of the trustees in voluntary dissolutions must be reported to the superintendent (162 and 163).

Savings banks annually report to the superintendent concerning accounts of $5 or more that have been dormant (i. e., neither increased nor diminished, nor pass book pre-

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sented for credit of interest) for twenty-two years and over; the report must give specific facts, including dates, name of depositor, and nationality of depositor, but not amount to the credit of the account. The superintendent receives claims for these dormant deposits (30). When, after dissolution of a savings bank, unclaimed deposits are left with the superintendent, he must include a statement of them in his annual report to the legislature (164); see Banks for other items in the report.

The summary published by the superintendent after he receives a quarterly bank report is not published in the case of the semiannual reports of savings banks (24). After each examination the examiner reports the result of the examination to the superintendent (11), who may cause the report to be published if he deems it proper (16).

EXAMINATIONS.

The superintendent, personally or by an examiner, visits savings banks once in two years, or more frequently if he thinks it necessary. The examination covers the same matters as in the case of banks, and the examiner is subject to the same limitations (8, 11, 12, 16, 20, and 22); see Banks.

The trustees, by a committee of not less than three of their number, must twice a year thoroughly examine the books of the savings bank. The statements of assets and liabilities forwarded to the superintendent for July 1 and January 1 is based on this examination (157).

IV.—Reserve Requirements.

Certain provisions with respect to cash allowed to be held by a savings bank without investment are given in the last paragraph under VI, *infra*. They are not requirements, however.

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V.—Deposit, Discount, and Loan Restrictions.

Savings banks may limit the amount which one person or society may deposit. In any case the deposit of one individual, exclusive of deposits arising from judicial sales or trust funds or interest, must not exceed $3,000, nor the deposit of one society, exclusive of accrued interest, $5,000 (143).

Of the restrictions given under Banks, V, prescribed by section 27, savings banks are subject to those against loans on security of real estate, in paragraph C (see V, Banks); to the prohibition of purchase by the corporation or its officers, etc., of paper issued by the corporation for less than its face value, paragraph D; to the rule for the designation of depositaries, paragraph E; to the provision that officers may not loan upon paper offered to the corporation and refused by it, paragraph F; and to the prohibition against loaning on the security of shares of another moneyed corporation to such an extent as to make the lender holder of more than 10 per cent of the borrower's stock, paragraph I (27).

Savings banks must not loan to their trustees (140 and 142); they must not loan on personal securities (150); they must not issue certificates of deposit payable on demand or on a fixed day, nor pay interest, except their regular dividends (152).

See also VI, below.

VI.—Investments.

Savings banks are not permitted to deal in land or personalty or commercial paper, nor to borrow pledging securities except with the approval of the superintendent and by vote of a majority of the trustees (152). They may hold real estate only for necessary buildings, subject to the superintendent's approval; and unless he approves, the lot and buildings, though part may be rented, must not

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cost more than 25 per cent of the surplus. Savings banks may purchase at foreclosure sales on mortgages owned by them, may purchase at sales on judgments rendered for debts due them, or in settlements to secure such debts, but the land so acquired must be sold within five years (147).

The provisions for investments for savings banks are minute and complex. Omitting minor distinctions, they may invest, first, in stocks and bonds of the United States; second, in stocks and bonds of New York State; third, in stocks or bonds of any State which has within ten years before the investment not defaulted in payment of any debt; fourth, in the stocks or bonds of any city, town, etc., of New York; fifth, in stocks or bonds of any city in a State admitted to statehood prior to 1896, which city since 1861 has not repudiated payment of any debt, provided the city has a population of not less than 45,000, was incorporated twenty-five years before the investment, has not since 1878 defaulted for more than ninety days on its debts, nor compromised them, and is not at the time of the investment indebted beyond 7 per cent of its valuation for taxes, including the debts of municipal corporations or subdivisions, except counties, that are included wholly or partly within the limits of the city, but deducting water debt and sinking fund; sixth, in bonds and mortgages on unincumbered real property in New York to the extent of 60 per cent of its value, but not more than 65 per cent of the whole amount of deposits of the savings bank may be thus invested; if the real property is unimproved, the mortgage must not be for more than 40 per cent of the value of the land, and mortgages must always be approved by a committee of trustees. Further investments permitted are as follows: (*a*) First mortgage bonds of a railroad corporation of New York, the principal part of whose railroad is located in New

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York, or first mortgage bonds of any railroad corporation of any State, controlled and operated as part of the system of such a New York railroad if a majority of the stock of the controlled railroad is owned by such a New York railroad, or in the refunding bonds of any railroad companies satisfying the above description; the companies issuing the bonds must have paid interest on their mortgage debt and 4 per cent dividends for five years, and the capital of the issuing corporation must equal one-third of its total mortgage debt. (*b*) Mortgage bonds of fourteen named railroads; also the mortgage bonds of railroads leased, operated, or controlled by one of the named companies, if the controlling corporation guarantees the bonds, and if the company issuing the bonds has earned 4 per cent dividends for ten years, and its stock equals one-third of its bonded debt; these bonds must be secured by first or refunding mortgage. (*c*) Mortgage bonds of two named railroads so long as they pay 4 per cent dividends, provided their capital stock equals one-third their bonded debt; these bonds must be secured by first or refunding mortgage. (*d*) First mortgage or refunding bonds of one named railroad, provided its capital equals one-third its bonded debt, and provided the railroad is of standard gauge. Also refunding bonds of another named railroad. (*e*) Mortgage bonds of any railroad incorporated in one of the United States which owns 500 miles of standard gauge railroad, exclusive of sidings, in the United States, provided that for five years it has paid principal and interest of its mortgage debt and 4 per cent dividends, and provided that for five years its gross earnings, including the earnings of subsidiary companies, have been at least five times the amount necessary to pay interest on outstanding debts and rentals, and provided the bonds are secured by first or refunding mortgage covering 75 per

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cent of the railroad's line; these mortgages must not authorize an issue of bonds which, together with outstanding prior debts, exceeds three times capital stock. (*f*) Any railroad mortgage bonds which would be a legal investment under (*e*) except for the fact that the railroad issuing the bonds owns less than 500 miles of line, provided that during the previous five years its gross earnings, including those of subsidiary lines, have been at least $10,000,000. (*g*) Mortgage bonds of a railroad corporation described in (*e*) or (*f*), or mortgage bonds of a railroad owned by such a corporation, assumed or guaranteed by it, provided the bonds are prior to or are to be refunded by a general mortgage of the corporation, the bonds secured by which are a legal investment under (*e*) or (*f*), and provided further the general mortgage covers all the real property upon which the mortgage securing the underlying bonds is a lien. (*h*) Any railroad mortgage bonds which would be a legal investment under (*e*) or (*g*), except for the fact that the railroad issuing the bonds owns less than 500 miles of road, provided the bonds are guaranteed or assumed by a corporation whose first or refunding mortgage bonds are a legal investment under (*e*) or (*f*); but no bonds thus guaranteed or assumed are a legal investment if the mortgage securing them authorizes a total issue of bonds which, with prior debts of the guaranteeing or assuming corporation, exceeds three times its capital. (*i*) First mortgage bonds of a railroad whose entire capital is owned by and which is operated by a railroad whose last issued refunding bonds are a legal investment under (*a*), (*e*), or (*f*), provided these bonds are guaranteed by the owning and operating company, and provided the mortgage securing them does not authorize an issue of more than $20,000 of bonds per mile; but no bonds thus guaranteed shall be a legal investment if the

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mortgage securing them authorizes a total issue of bonds which, together with prior debts of the guaranteeing company, exceeds three times its capital stock.

Bonds which have been a legal investment are not rendered illegal by the sale of the mortgaged property or by the consolidation of the issuing or assuming railroad with another railroad, provided the consolidated or purchasing railroad assumes the bonds and continues to pay interest or dividends, or both, on the securities issued to acquire the stock of the company taken over or the property purchased to an amount equal to 4 per cent of the capital stock outstanding at the time of the consolidation or purchase of the issuing or assuming corporation.

Not more than 25 per cent of the assets of a savings bank may be loaned or invested in railroad bonds; not more than 10 per cent of its assets may be invested in the bonds of any one railroad described under (*a*); and not more than 5 per cent of its assets in the bonds of any other railroad (146).

A fund not exceeding 10 per cent of all the deposits may be held by a savings bank in cash on hand or on deposit for current expenses, but the deposit in any one depositary must not exceed 25 per cent of the capital and surplus of the depositary. This fund may be loaned on pledge of certain of the securities in which a savings bank may invest. The loan, however, must never exceed 90 per cent of the cash value of the securities pledged (148). This depositing is also subject to the rule that the depositary must be voted one by a majority of the directors of the depositor, exclusive of those who are officers of the depositary (27). Savings banks may deposit temporarily the excess of current daily receipts over payments pending a chance to invest (149).

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VIII.—Branches.

There is no express provision respecting branches of savings banks. The provision given under Banks reads: "No bank," etc. (109). The certificate of incorporation of a savings bank must state "the place where its business is to be transacted, designating the particular city, village, or town, and, if in a city, the ward therein" (130).

IX.—Occupation of the Same Building.

(See Banks, IX.)

X.—Unauthorized Banking.

No person, firm, or corporation may use "savings" in its business or in advertising, or do a savings deposit business, except savings banks organized under the New York statutes; offenders forfeit $100 per day. Despite the prohibition on unauthorized savings banking, however, principals of public schools may collect savings from their pupils and deposit them, using in their circulars such words as "school savings banks" (160). No savings bank may transact business without the certificate of the superintendent (32). See also sections of the Penal Law, under Banks, X.

XI.—Penalties.

Failure to report on time entails, as in the case of banks, forfeit of $100 per day; failure to make two successive reports entails forfeiture of charter (22). Savings banks which fail to report unclaimed deposits, etc., forfeit $100 a day during the delay (30).

A savings bank which allows a majority of its trustees to be members of the board of directors of a bank or a national bank forfeits its charter (137). Any person

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violating the prohibition upon purchase by a savings bank or its officers, etc., of commercial paper issued by the bank at less than its face value forfeits three times the face value of the paper; any person violating the prohibition upon a loan by an officer, etc., on paper which the savings bank has refused forfeits twice the amount of the loan (27).

The provisions of the Penal Code discussed under the head of Banks are in part also applicable to savings banks See also Penal Law, section 296, which makes it a misdemeanor for any officer or trustee of a savings bank to invest its funds in unauthorized securities.

TRUST COMPANIES.

I.—Terms of Incorporation.

The capital of a trust company must be at least $500,000, except that in cities of less than 250,000 and more than 100,000 the capital may be not less than $200,000; in cities between 25,000 and 100,000 it may be not less than $150,000; and in cities under 25,000 it may be not less than $100,000 (180); this capital must be fully paid in in cash (184).

The superintendent must be assured that all the capital has been paid in in cash (12); he has discretion to determine if the public convenience requires this incorporation (183).

The provisions for calculating profits before declaring dividends and for charging losses as reduction of capital are as they were in the case of banks (28 and 29).

II.—Liabilities and Duties of Stockholders and Directors.

A constitutional provision, before stated, makes the stockholders of all corporations "for banking purposes"

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individually liable if default is made in the payment of any debt, for all the debts of the corporation, to the amount of the stock held at the time of the default (constitution, Art. VIII, sec. 7). It is provided in the banking law that stockholders in a trust company are individually responsible for its debts existing at the time it makes default on a debt, "but no stockholder shall be liable for the debts of the corporation to an amount exceeding the par value of the respective shares of stock by him held in such corporation at the time of such default" (196).

Directors, of whom there must be for each trust company between thirteen and thirty, must each hold ten shares of the stock of the company (195). They must meet once a month and must appoint officers to report to them or a committee of them the statement of which details were given under this head in Banks (42). See Banks, also, for their semiannual examination and report (23).

III.—Supervision.

The general sections of the banking law dealing with the superintendent and his examiners give him authority over trust companies. It is within his discretion to bar incorporation when public convenience will not be furthered by the proposed trust company (183). He approves reserve depositaries, requires deficient reserves to be made good, and proceeds against trust companies which fail to make good their reserves in thirty days as against insolvent corporations (198). See Banks III, for his proceedings against delinquent corporations (17, 18, 19, and 22), and for other powers. He authorizes branches when he has ascertained that public convenience will be promoted by them (186).

It is provided that every corporation subject to the banking law "except banks, savings banks, and domestic

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corporations specified in articles six and eight of this chapter, engaged in receiving deposits of money in trust in this State, and required to make a report of its affairs to the superintendent of banks" (six and eight are articles dealing with cooperative savings and loan associations and mortgage, loan, and investment companies) must deposit with the superintendent securities of various sorts and in various amounts, to be held by the superintendent in trust for depositors and creditors, paying the interest to the corporation (14).

REPORTS.

The reports of trust companies are provided for in the same terms as are those of banks; they must be made once in every three months in respect to a date designated by the superintendent, within ten days after that day, and must be published in a local newspaper; the superintendent publishes his summary, as in the case of banks (21, 22, and 24). A designated officer reports monthly to the directors (42). After each examination, the examiner reports its result to the superintendent (11), who may publish the report if he wishes (16). See Banks, for superintendent's annual report to the legislature and for directors' semiannual report. The report of unclaimed deposits and the report of net earnings and surplus after the declaration of each dividend, are required only of "banks" (27 and 30). Before beginning business a trust company must file with the superintendent a list of its stockholders, with address and stock holdings of each (185).

EXAMINATIONS.

Here also trust companies are subject to the same provisions as banks are; they are examined twice a year on matters previously enumerated (8, 11, 12, 16, 17, 20, 22,

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and 23); see Banks. Trust company directors make April and October examinations, such as are required of bank directors (23). There is a preliminary examination by the banking department to make sure capital has been paid in (184).

IV.—Reserve Requirements.

First.—A trust company having a principal place of business or a branch in a borough which has a population of 1,800,000 or over must have a reserve fund of at least 15 per cent of its deposits, exclusive of moneys held in trust not payable within thirty days, exclusive also of time deposits not payable within thirty days represented by certificates, and exclusive also of deposits secured by bonds of New York State. This reserve must consist of either lawful money of the United States, gold certificates, silver certificates, or national-bank notes.

Second.—A trust company having its principal place of business in a borough which has a population of less than 1,800,000 (provided the trust company has no branch in a borough of over 1,800,000) must have a reserve of 15 per cent of the aggregate deposits, exclusive of the same deposits that were enumerated above. Only two-thirds of this reserve, however, must consist in the funds prescribed for the trust companies in the larger boroughs; the other one-third may be in the shape of deposits subject to call in a bank or trust company in the State, with a capital of at least $200,000, or with a capital and surplus of at least $300,000; the depositary must be approved by the superintendent of banks.

Third.—A trust company having a principal place of business elsewhere must hold a reserve equal to at least 10 per cent of its deposits, exclusive of the sorts enumerated in the first paragraph above. Half of this reserve must be in the lawful money prescribed in the other cases,

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and the other half may be on deposit in a bank or trust company in the State approved by the superintendent of banks, with capital of $200,000 or capital and surplus of $300,000. If the reserve falls below, the company must make no new loans except by purchase of sight exchange, nor pay dividends till the reserve is restored (198).

V.—Discount and Loan Restrictions.

Trust companies are subject to most of the provisions of section 27. The restrictions upon loans to any one person, firm, or corporation are as stated in paragraph A under this head under Banks; the restrictions upon loans made on securities of corporations where payment is undertaken severally, but not jointly, by two or more individuals, firms, or corporations are as stated in paragraph B; the restrictions upon loans upon the security of real estate are as stated under C. The prohibition upon purchase by a trust company or any director, etc., of paper issued by the corporation for less than its face value is as stated in paragraph D. The requirements in choosing depositaries are as stated in E. No officer etc., may, as an individual, loan upon paper which the corporation has refused, as stated in F. The prohibition on holding the corporation's own shares either as security or by purchase is as stated in H. The prohibition against loaning so as to hold more than 10 per cent of a borrowing monied corporation's stock is as stated in I. Note that G applies to "any bank," and therefore not to trust companies (27).

No trust company may loan an amount equal to more than one-tenth of its capital stock to any director or officer, and no loan may be made to any director or officer without the consent of a majority of the directors (186).

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VI.—Investments.

Trust companies may hold real property that is necessary for their business or that is acquired in satisfaction of debts under sales, judgments, or mortgages, or in settlements (186).

Trust companies must invest their capital in bonds and mortgages on unincumbered real property in New York not exceeding 60 per cent of the value of the property, or in stocks or bonds of New York State, of the United States, or of municipalities of New York. Trust funds may be invested as capital is, or in securities of any State, "or in such real or personal securities as it (the company) may deem proper" (193). A trust company may not hold stock in any private corporation to an amount exceeding 10 per cent of the capital, surplus, and undivided profits of the corporation holding, nor may a trust company hold stock of another monied corporation exceeding 10 per cent of the total stock of the corporation whose stock is held, except in the case of an adjacent safe deposit company (194).

See Banks for the prohibition upon a trust company's holding its own stock (27).

VII.—Overdrafts.

(See this heading under Banks.)

VIII.—Branches.

Trust companies are prohibited from doing business by branch offices in a city not named in the certificate of incorporation as the place of the company's business; written approval of the superintendent, which he may give or withhold at his discretion, is a prerequisite to opening a branch; the capital of the company must exceed that normally required by $100,000 for each branch (186).

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IX.—Occupation of the Same Building.

See Banks, IX.

X.—Unauthorized Trust Company Business.

Foreign corporations are denied most trust company powers (186). No trust company may transact business without the certificate of the superintendent (32). See also sections of the Penal Law, under Banks, X.

XI.—Penalties.

The penalties are in general the same as those for violation of law by banks. Failure to report entails a forfeit of $100 per day. Failure to make two successive reports entails forfeiture of charter (22). Failure of directors to file their April and October reports entails a $100 a day penalty, paid by the corporation (23). There is a $1,000 a week penalty for maintaining an illegal branch (186). See Banks, XI, for the penalties for violating various provisions of section 27; all are applicable to trust companies except G, which applies to "any bank," and except the penalty of loss of charter for violating provisions dealing with dividends and surplus. This latter provision puts certain requirements on "any bank" with respect to declaring dividends, after which it requires "each corporation" to make a report on dividends, net earnings, etc.

The various misdemeanors specified in the Penal Law (see Banks, XI) apply, many of them, to trust companies, including especially the agreement by an employee of a trust company with a depositor that the depositor's certificates be paid before maturity (Penal Law, sec. 290). Directors who open a branch without the written approval of the superintendent forfeit $1,000 per week (186).

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NORTH CAROLINA.

"Banks" is the title of chapter 7 of the Revisal of 1905 of the laws of North Carolina. This act as originally passed applied to commercial banks and savings banks. Chapter 829 of the public laws of North Carolina for 1907 was designed, according to its title, to amend chapter 7 by placing trust companies under the laws and rules governing banks. This was done by inserting at various places in chapter 7 additions extending it to "banking and trust, fiduciary, and surety companies." The result seems to be that chapter 7 now applies indiscriminately to banks, savings banks, and trust companies that also do a banking business; the digest is accordingly not divided under those three heads. Nevertheless, since the amendment in certain sections left the language of the original chapter in such condition that it by no means clearly applies to all classes, such instances are indicated in the digest by quoting the doubtful language of the statute as it now stands. There are, besides, a few sections which are framed to apply only to one class, and these also are indicated. The citations are to sections in the Revisal of 1905 as amended by chapter 829 of 1907. The statutes have been examined through the special session of 1908 (at which an act was passed protecting banks which issued scrip in the panic of 1907 and 1908 from the penalties upon the issue of paper to circulate as money—1908, chap. 121), and the regular session of 1909.

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I.—Terms of Incorporation.

The capital stock of a bank, savings bank, or banking, trust, and surety company must be not less than $5,000 in cities and towns of 1,500 or less; not less than $10,000 in cities and towns of from 1,500 to 5,000; and not less than $25,000 elsewhere. The shares must be of $50 or $100 (222). Before beginning banking, or banking and trust or surety business, every company files with the corporation commission a statement containing various items. Nothing may be received in payment of capital stock but money (225). Fifty per cent of the capital stock of every bank must be paid in in cash before business is begun, and the rest paid in in monthly installments of at least 10 per cent of the whole capital, in cash; no bank may begin business with less paid-in capital than $5,000. This provision applies in its terms as stated only to "every bank" (224, amd. by 1909, chap. 911). It seems likely that in case of ambiguity the statute would be read to apply to all three sorts of companies, on the strength of the legislature's manifest intention to make the rules uniform for them all.

The corporation commission may withhold from any bank, banking, and trust, fiduciary or surety company the authorizing certificate if it has reason to believe that the organization is formed for objects other than those contemplated by the statute (227).

Corporations may combine the business of discount and deposit banking known as commercial banking, and the business of operating offices of loan and deposit known as savings banking (222).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of "every bank organized under the laws of North Carolina" are individually responsible for

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all contracts and debts of the corporation to the extent of the amount of their stock at par in addition to the amount invested in the shares. Here also, although the general intent of the act of 1907 seems to have been to bring trust companies within the scope of chapter 7, the language of the original section has been unchanged and is as quoted (235).

III.—Supervision.

The supervision of banking institutions in this State is in the hands of the corporation commission, a court of record consisting of three commissioners elected like other state officers and holding office for six years. They have control over not banks alone, but also railroads, telegraph companies, etc. (241, and Revisal of 1905, chap. 20). The corporation commission may make such rules for the governing of banking institutions as in its judgment seem wise (240).

The corporation commisssion appoints a suitable person or persons to make examinations of individuals and corporations doing a banking business (246). These examiners when ordered by the commission have authority to take possession of "any bank doing business under the laws of this State," and retain possession until a thorough examination can be made, when, if the examiner finds that "such bank" is insolvent or conducting its business unsafely, then the examiner, if authorized by the corporation commission, may hold possession of all the property of "such bank, corporation, partnership, firm, or individual" until the commission acts on the examiner's report and has a receiver appointed. The commission has power to institute proceedings for receivership or for such other relief as is necessary to protect the creditors. The commissioners may grant sixty days in which to correct irregularities, or make good

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deficiencies (250). When a receiver has been appointed he is under the control of the commission in so far as their orders do not conflict with the decrees of the appointing court (1907, chap. 829, sec. 13). If the reports or examinations of persons, firms, or corporations doing a banking, trust, and surety business show that their liabilities are equal to their capital stock the corporation commission has power to make rules for the reduction of their liabilities (242*a*). The commission has certain authority over reorganizations (230). Bank examiners have authority to arrest for violation of the criminal laws of the State relating to banking (251).

REPORTS.

Corporations, firms, and individuals "transacting a banking business or banking and trust, fiduciary, and surety business or banking and real estate business" make not less than four reports a year to the corporation commission in the form prescribed by the commission. The report is published in a local newspaper (242). Certain reports are required from state depositaries (5371) and from all banking institutions for purposes of taxation (5267 *et seq.*). In the case of persons, firms, or corporations "doing a banking and trust and fiduciary and surety or guarantee business," the reports show the trust and surety business as part of the liabilities of the banking institution (242*a*). Special reports may be called for by the commission whenever necessary from "any bank, corporation, firm, or individual transacting a banking business" (243). Once a year, or whenever called upon, "every bank" must file with the corporation commission a list of its stockholders, with the number of shares held by each (244).

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EXAMINATIONS.

If examinations are necessary they may be made, preliminary to granting the authorization to begin business (226). The examiner or examiners appointed by the corporation commission examine "every bank, corporation, or individual doing a banking business" as often as may be deemed necessary, and at least once a year (246). After examining any corporation or individual doing a banking business the examiners within ten days make a detailed report to the commission (248). An examiner when ordered by the commission may take possession of "any bank doing business under the laws of this State" and retain possession for time enough to make a thorough examination. If this discloses unauthorized transactions or the like, the examiner, if authorized by the commission holds the property pending proceedings for a receiver (250).

IV.—Reserve Requirements.

"Every bank or banking and trust company doing business and engaging in a banking, trust, fiduciary, or surety business and dealing in real estate" must keep in available funds a reserve equal to 15 per cent of its deposits. Two-fifths of the 15 per cent must be in cash in the vaults of the bank. Savings banks are required to keep a reserve in available funds equal to 5 per cent of their deposits (231). Available funds generally must consist of cash on hand and balances due from solvent banks. Cash may include lawful money of the United States and exchange for any clearing house association. If available funds fall below the reserve requirement, no new loans may be made except by discounting or purchasing sight bills of exchange, and no dividends may be declared (232).

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V.—Discount and Loan Restrictions.

The total liabilities to any "banking institution or banking or trust company doing a fiduciary and surety business and dealing in real estate" of any person, company, or firm for money borrowed including in company or firm liabilities, liabilities of the members, must never exceed one-tenth of the paid-in capital of the bank. The discount of bills of exchange drawn against existing values, and generally the discount of commercial paper, are not considered money borrowed. This section, however, does not apply "to banks" with a paid-up capital of $100,000 or less (233).

"No bank" may hold as pledgee any portion of its own capital stock (229).

VI.—Investments.

"Banking corporations, banking and trust companies doing a fiduciary and surety business" may hold real estate, if it is necessary for the convenient transaction of their business, including other apartments that may be rented (this investment not to exceed 25 per cent of capital and surplus, however); if the real estate is mortgaged to secure loans due the bank; if it is conveyed to it in satisfaction of previous debts; or if it is acquired by sale under execution or judgment in favor of the purchasing bank (228). "Such bank and trust company doing a general banking and trust, fiduciary and surety business and dealing in real estate" must not invest more than 25 per cent of its capital and surplus in real estate, unless to protect loans or debts previously contracted, or unless acquired on sale under execution in its favor (228a).

"No bank" may purchase its own stock unless the purchase is necessary to prevent loss on a previous debt (229).

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XI.—Penalties.

The penalty for failing to report or publish required statements is $200 (245). Any person who willfully makes a false statement in the books of any banking institution or exhibits false papers to deceive an examiner or publishes a false report is guilty of a felony punishable by imprisonment of from four months to ten years (3326). Officers and directors of banks, who without authority from the directors issue certificates of deposit, draw negotiable paper, assign assets, make fraudulent report or statements or aid in doing these things are guilty of a felony. The same section provides in a common form for embezzlement (3325).

If any bank examiner makes a false report of the condition of an examined bank with intent to abet the operation of an insolvent bank or if the examiner accepts a bribe to induce him not to report an examination, or if he neglects to examine by reason of having taken a bribe, he is guilty of a felony, punishable by imprisonment of from four months to ten years (3324).

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NORTH DAKOTA.

The digest for this State is based on the Revised Codes, 1905, and the session laws of 1907 and 1909. The principal act is one passed in 1905, the language of which refers continually to "such association," an expression which goes back to "any association organized under the provisions of this chapter," and in some instances to "every banking association, savings bank, and trust company organized under this chapter." It seems likely, therefore, that the chapter is meant to apply to all three sorts of institutions. It has been digested under "Banks" only, and a hint is given under "Savings Banks" of the various provisions of the chapter which expressly mention savings banks. Except for the sections in this act which mention savings banks and one or two other provisions of the codes, savings banks are not subject to particular laws; so it is readily believed that they are subject to the banking law. If it is true that trust companies are, too, they are legislated for also, nevertheless, among the provisions relating to corporations, under the chapter "Organization and management of annuity, safe deposit, and trust companies.' Provisions of this chapter are digested under the heading "Trust Companies;" but the probable application of the bank chapter to trust companies must be also borne in mind. Numbers in parentheses refer to sections in the Revised Codes of 1905.

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BANKS.

I.—Terms of Incorporation.

No association may be organized under the banking chapter in cities, towns, or villages of 1,000 or less with a capital of less than $10,000; in those of 1,000 to 2,000, with less than $20,000; in those of 2,000 to 3,000, with less than $30,000; in those of 3,000 to 4,000, with less than $35,000; in those of 4,000 to 5,000, with less than $40,000; in those of over 5,000, with less than $50,000. At least 50 per cent of the capital must be paid in before business is begun, and the balance must be paid in in installments of not less than 10 per cent of the capital at the end of each month (4641). Shares are of $100 each (4645).

Dividends may be declared semiannually or annually out of net profits (never from capital; nor may capital be otherwise impaired—4650); but before the declaration, one-tenth of net profits must be carried to surplus until it amounts to 20 per cent of capital (4648).

"Every banking association in this State" is exempt from attachment and execution (4673).

II.—Liabilities and Duties of Stockholders and Directors.

The shareholders of every association organized under the banking chapter are individually liable for debts of the association to the extent of the amount of their stock, in addition to the amount invested in the shares. This liability continues for one year after transfer of stock (4653).

Every director must own at least 10 shares of stock (4649). Two-thirds of the directors must be residents of North Dakota (4639). In January and July of each year the directors examine the affairs of the bank, reporting

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to the state banking board (4667). Any bank officer or employee who pays out funds on a check for which there is not the required sum on deposit is personally liable to the bank for the amount paid (4669). Although banks which are disposing of loans on real estate may not guarantee the payment of the loan, the person or officer who illegally attempts to bind the bank by such guaranty is liable under it (4639).

III.—Supervision.

There is a state banking board composed of the governor, the secretary of state, and the attorney-general. This board holds monthly meetings, and special meetings at the call of the governor. It controls banks, savings banks, and trust companies. At its regular meetings it examines all reports, and reports of examinations turned in by the state examiner (4635). The state examiner, an official who inspects public accounts, etc., is ex officio superintendent of banks. He does the examining and reports to the state banking board. He must not be interested in any association organized under the banking chapter (4664). His term of office is two years (140). Every bank is given an official number by the secretary of state (1909, chap. 43).

The secretary of state withholds permission to begin business if he has reason to believe the corporation is not organized for legitimate purposes (4639). Reductions and increases in capital must be approved by the state banking board (4646). The board must determine what are bad debts, and must make and enforce orders for the disposal of them (4650). The board approves of reserve depositaries. The board must notify a bank whose reserve is below the required amount, and if it fails after thirty days to repair the reserve, the board imposes a

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penalty (4655). The secretary of state may withhold a certificate from a corporation which he has reason to suppose is formed for other than legitimate objects (4639). On being satisfied of the insolvency of any banking association organized under the banking chapter, or of the violation of any of the provisions of the chapter, the board, after an examination, takes charge of the insolvent bank, pending action by a court. The board appoints a temporary receiver (4668). If it appears that the capital stock of a bank is impaired, the board must make an order restraining the declaring of dividends and require the deficit to be made good (4671). If any bank fails to pay a judgment against it, the board declares the bank insolvent and causes a receiver to be appointed (4673). Insolvency is defined to include failure to make good a deficiency in reserve, and noncompliance with an order of the board (4674). If any bank fails to comply with a requirement of the board or of the examiner for ninety days, or for a shorter period if it is specified in the order, it is deemed to have forfeited its franchise, and the state banking board, through the attorney-general, must bring suit to annul the bank's existence (4663).

REPORTS.

"Every banking association, savings bank, and trust company organized under this chapter" must make at least five reports a year to the state examiner, in a form prescribed by the banking board, as nearly as possible like the form for national bank reports. The report shows resources and liabilities at the close of business on a past day specified by the examiner, which must, whenever possible, be the day on which national banks report. Reports must be transmitted within seven days after receipt of the examiner's request, and an abstract must

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be published in a local newspaper. The board may call for a special report whenever it is necessary (4652). After the examination made by the directors in January and July of each year they report the results to the state banking board with suggestions and criticisms (4667). The state examiner reports the result of every examination to the banking board (4664). The temporary receiver appointed by the state banking board reports as soon as he has taken charge of a bank (4668). A list of names of shareholders with amount of stock held by each is filed twice a year with the state examiner (4670). For reports required for taxation see 1508 and 1509; for reports from depositaries of public funds see 931.

EXAMINATIONS.

The state examiner, as often as the state banking board sees fit and at least once a year, examines "every banking association, savings bank, and trust company organized under this law or the law of the State of North Dakota." He reports the result to the board (4664). In the chapter in the Code on the state examiner, a list of the details which he must examine is given as follows: Validity and amount of securities held, what transactions each bank is carrying on foreign to its legitimate purposes, and its compliance with law generally. The examiner must report the results of examinations to the governor, who may publish them (145). The directors, in January and July of each year, make a thorough examination of the assets of their bank, examine stocks, checks, certificates of deposit, and cashier's checks, count cash, examine loans and discounts with collateral, compare the aggregate with the records, and report the result to the banking board (4667). When the board is satisfied of the insolvency of a bank it takes charge through a temporary

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receiver; before doing this the board makes an examination (4668). The examiner makes a thorough examination in voluntary dissolutions (4647).

IV.—Reserve Requirements.

Every bank must keep in available funds an amount, which, after deducting the amount due to other banks, will equal 20 per cent of total deposits. Three-fifths of this amount may consist of balances due from good solvent state or national banks or trust companies, which carry a reserve sufficient to entitle them to act as depositaries, are located in convenient commercial centers, and have been approved by the state banking board; the remaining two-fifths must consist of actual cash, which must not include cash items. No paper may be carried as cash or a cash item except legitimate bank exchange which will be cleared on the same or the next day. When reserves fall below the required amount the bank must not make new loans or discounts, except by purchasing sight exchange, nor make dividends (4655).

V.—Discount and Loan Restrictions.

Among banking powers is that of "loaning money upon real or personal security, or both." No bank may carry among its assets loans dependent wholly upon real estate security in an amount exceeding one-half its capital and surplus; whatever loans on real estate there are must be upon first mortgage (4639).

The total liability of any person, corporation, or firm, including in firm liabilities those of the members, for money borrowed "and paper of the same parties as makers thereof, purchased," must not exceed 15 per cent of paid in capital and surplus, but the discount of bills of exchange drawn against existing values, or loans made

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upon produce in transit or store as collateral, if all the papers are properly hypothcated, are not considered money borrowed. Moreover, a bank may discount paper actually owned by the person negotiating it without being considered as adding to its loans (4657, amended by 1909, chap. 45). No bank may loan on the security of its own shares unless it is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months (4654).

VI.—Investments.

A bank may hold only such real estate as is necessary for its accommodation in business, not exceeding 25 per cent of a capital of over $10,000, and 30 per cent if the capital is $10,000 or less; such as is mortgaged for loans or previous debts; such as is conveyed to the bank in satisfaction of previous debts; such as is purchased at judicial sales under liens held by the bank or is purchased to secure debts due it; but no bank may hold real estate under mortgage or that purchased to secure an indebtedness for longer than five years (4640).

No bank may hold its own shares unless necessary to prevent loss on a previous debt, in which case it must dispose of the stock within six months (4654).

No bank may employ its assets in trade or commerce, nor invest "in the stock of any corporation, bank, partnership, firm, or association, nor shall it invest any of its assets in speculative margins of stocks, bonds, grain, provisions, produce, or other commodities, except that it shall be lawful for banks to make advances for grain or other products in store or in transit to market" (4672).

VII.—Overdrafts.

Any bank officer or employee who pays out the funds of the bank on the order of one who has not on deposit a

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sum equal to the check is personally liable to the bank for the amount paid (4669). The officer or employee of a bank or savings bank who overdraws his account and obtains the funds is guilty of a misdemeanor (9282).

X.—Unauthorized Banking.

No person, except national banks, may transact banking business or use such words as "bank" on signs, advertisements, letter heads, etc., without complying with the provisions of the banking chapter. Violation of this provision is a misdemeanor punishable by fine of from $500 to $1,000, imprisonment for not less than ninety days, or both (4662).

XI.—Penalties.

Overdraft by an officer or employee of a bank or savings bank a misdemeanor (9282). Every director of "a corporation having banking powers" who votes to loan or discount to a director in an illegal amount is guilty of a misdemeanor (9277). The state banking board may impose a penalty of from $100 to $500 on associations organized under the banking chapter which fail to make good their reserve within thirty days after notice (4655). Every officer or employee of any association organized under the banking chapter who knowingly makes false statements, etc., to deceive an examiner, or subscribes to a false report, is guilty of forgery (4659). Every association which fails to report forfeits $200 for each delinquency (4652). Any officer, director, etc., of a "banking association" who receives deposits knowing that the association is insolvent is guilty of a felony, punishable by fine not to exceed $10,000, imprisonment not to exceed five years, or both (4660 and 4661; and see an apparently overridden provision in the Code in 9283).

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"Any officer of a banking association, savings bank, or trust company" violating provisions for which no particular penalty is provided suffers a fine of from $50 to $500 for each offense (4658). It is a felony not to make whatever returns the examiner asks for (146). It is also a felony to hinder examination, punishable by a $1,000 fine or one year's imprisonment (147).

SAVINGS BANKS.

Savings banks are expressly mentioned in the sections of the banking act, creating the banking board (4635); requiring reports (4652); subjecting banks to examination (4664); etc. See introductory paragraph under this State.

TRUST COMPANIES.

I.—Terms of Incorporation.

Among the powers of an annuity, safe deposit, surety, and trust company is that "to take, accept, and hold on deposit or for safe-keeping any and all moneys, bonds, stocks, and other securities or personal property whatsoever which any * * * person or persons shall be authorized or required by law or otherwise to deposit in a bank or other safe deposit;" also the power "to accept and receive deposits of money for general savings account for safe keeping or investment" (4682). Despite these powers, however, it is provided that "no such company shall engage in any banking, mercantile, manufacturing, or other business except as is * * * expressly authorized" by the trust company chapter (4689).

The capital of a trust company must be not less than $100,000, divided into shares of $100 each. Not less than $50,000 must be actually paid in, invested, and deposited with the state treasurer (4678 and 4679). The full

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amount of the subscribed capital must be paid in within two years after business is begun (4691).

II.—Liabilities and Duties of Stockholders and Directors.

There is no especial provision for liability of trust company shareholders.

There must be from nine to fifteen directors, a majority of whom must be citizens of North Dakota, and each of whom must own at least 10 shares of stock (4680). Directors are responsible to the owners of moneys received on deposit or in trust for the validity etc., of investments and securities at the time the investments are made and for the safe-keeping of the securities. Special provisions in a trust are followed, free from this liability (4683).

III.—Supervision.

See Banks, III, for officials in charge of trust company business in North Dakota. There is a $50,000 deposit with the state treasurer required before the corporation is allowed to begin business. Certain securities permissible for this deposit must be approved by the examiner and auditor (4678 and 4679). The examiner has over trust companies all authority conferred upon him over banking corporations. If it appears from an examination or report or from other information that a trust company has committed a violation of law or is conducting its business unsafely or that the deposit with the state auditor is insufficient, the examiner orders a discontinuance of the practices or a further deposit. Whenever the corporation refuses to comply, or it appears to the examiner that it is unsafe for it to continue business, he communicates the facts to the attorney-general and he thereupon is authorized to institute whatever proceedings the case requires (4692).

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REPORTS.

When acting under appointment of the court a trust company reports fully to it. It renders the state examiner a detailed account of its condition on the 1st of June in each year and such further accounts as he requires. A condensed statement of the annual report, approved by the examiner, must be published in a local newspaper (4690). Note that the banking chapter on reports includes trust companies in terms (4652).

EXAMINATIONS.

The state examiner once in every six months and without notice to the trust company, examines it, exercising such authority as he does over banks (4692). Note here also that trust companies are mentioned in the section providing for examination of banks (4664).

V.—DISCOUNT AND LOAN RESTRICTIONS.

A trust company may loan "upon such securities as may be deemed advisable by its board of directors" (4682). Loans to officers, directors, and employees are forbidden (4689).

VI.—INVESTMENTS.

A trust company may hold such real estate and personal property as may be necessary for the convenient transaction of its business, etc.; real estate acquired by foreclosure in settlement of debts, etc., may continue to be held if the directors think best. It may purchase at foreclosure, judgment sales, etc. (4632). The directors may invest "all moneys received * * * on deposit or in trust * * * in such securities as are not * * * expressly prohibited" by the trust company chapter (4683).

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The $50,000 deposit and certain trust funds must be invested in a prescribed way: In United States bonds; North Dakota bonds; bonds of other States that are approved by the auditor and examiner; bonds of certain North Dakota municipalities; and first mortgages of unincumbered real estate in North Dakota worth three times the loan (4678 and 4688).

VII.—Overdrafts.

Directors, officers, and employees of a trust company must not become indebted to the company "by means of any overdraft * * * or other contract" (4689).

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OHIO.

In 1908 the legislature of Ohio, in an act printed at page 269 of the laws of Ohio for that year, provided a complete set of rules for the organization of banks and their inspection. This statute supersedes the various banking laws appearing in Bates' Annotated Ohio Statutes, sixth edition, 1908, except those with regard to deposits of public moneys in banks and the reports of such depositaries (Bates' Statutes, secs. 1136–1 *et seq.*, and 1536–655); and those prohibiting banking by limited partnerships (sec. 3141). In another act found at page 528 of the laws of 1908 the legislature regulated the organization and inspection of building and loan associations and savings associations. This digest covers simply the act dealing with banks, provisions of which are applicable to banks, savings banks, and trust companies. So many of the provisions apply to those three classes indiscriminately that the digest is arranged under four heads: (1) Those provisions which apply to all; (2) those which apply to "commercial banks;" (3) those which apply to savings banks; (4) those which apply to trust companies. The numbers in parenthesis refer to sections of the act. No legislation is here digested which is more recent than the session laws of 1908. There was a special session in 1909, at which, however, no laws were passed affecting the topics covered by the digest.

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GENERAL PROVISIONS.

I.—Terms of Incorporation.

Any number of persons not less than five, a majority of whom are citizens of Ohio, may establish "a commercial bank, a savings bank, a safe deposit company, a trust company or * * * a company having departments for two or more or all of said classes of business" (1). All these corporations must have a capital stock (18). If a corporation combines two or more classes of business, it must keep separate books of account for each class and the transactions relating to each class are governed by the provisions of the act specifically applicable to the particular class (35).

The general provisions for capital are as follows: The capital must be divided into shares of $100 each. The capital of a commercial bank shall not be less than $25,000; of a savings bank not less than $25,000; of a commercial bank and savings bank not less than $25,000; of a commercial bank and safe deposit company not less than $25,000; of a savings bank, commercial bank, and safe deposit company not less than $50,000; of a trust company not less than $100,000; of a trust company and safe deposit company not less than $100,000; of a trust company and savings bank not less than $100,000; of a trust company, savings bank, and safe deposit company not less than $125,000; and of a trust company, savings bank, commercial bank, and safe deposit company not less than $125,000 (2). The entire capital stock must be subscribed and at least 50 per cent paid in before the corporation can begin business; the rest must be paid in in monthly installments of at least 10 per cent, payable at the end of each month after the superintendent of banks has authorized the corporation to commence business (11).

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The board of directors of any corporation may declare a dividend of as much of the net profits as they shall deem expedient, providing first for all expenses, losses, interest, and taxes due. Before declaring a dividend, however, not less than one-tenth of the net profits for the preceding dividend period must be carried to a surplus fund until the surplus amounts to 20 per cent of the capital (29).

II.—Liabilities and Duties of Stockholders and Directors.

An amendment to section 3 of Article XIII of the constitution, adopted in 1903, limits the liability of a stockholder for the debts of his corporation to the amount unpaid by the stockholder on his stock.

There must be not fewer than five nor more than thirty directors (6 and 22). They must meet at least once a month (22). Each director must own at least five shares of stock and three-fourths of the directors must be residents of Ohio (25). The board of directors may appoint an executive committee, to consist of at least three directors, to meet not less frequently than once a month, and to approve or disapprove all loans and investments, subject to the control of the board of directors (23). A committee of two directors or stockholders must be appointed annually by the board of directors to examine the assets and liabilities of the corporation and to report to the directors. This report is filed with the superintendent of banks (30).

III.—Supervision.

The state official in charge of banking is the superintendent of banks. His term is four years (78), and his salary $5,000 a year (82). Neither he nor the examiners he appoints may be interested in banking (87). They are not

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allowed to receive extra pay (95). They must keep secret all information obtained in the course of examinations, except that which the public duty requires them to report (106). No person employed by the superintendent may be appointed receiver of a banking institution (107).

No business may be done until the superintendent has authorized the corporation to begin (10). The superintendent may withhold his certificate that the corporation has complied with law if he has reason to believe that the corporation has been formed for any other purpose than the legitimate business contemplated by the statute (16).

Under certain circumstances the superintendent may institute proceedings for a receivership. He must do so if by the cancellation of stock of a delinquent holder the capital of the corporation is reduced below the legal minimum and is not increased to that point by additional subscriptions within sixty days from the date of the cancellation (14); also if a corporation has refused to pay its depositors, or is insolvent, or if its capital has been impaired for a period of ninety days, but in certain cases the corporation may show that the interests of its depositors, creditors, and stockholders will not be endangered by allowing it to continue business, under which circumstances the superintendent must not apply for the receiver (41); also if a corporation refuses to be examined (99); if it appears from a report that the capital of a corporation is impaired, and upon examination the superintendent finds an impairment, which the corporation does not make good after written notice (100 and 101); if any banking institution fails to maintain its required reserve and upon notice from the superintendent fails to make good the reserve (52, 58, and 75); if a banking institution, having purchased shares of its own stock to save itself from loss on a previous debt, fails to dispose of the stock on thirty days' notice from the superintendent (53).

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The superintendent may order a banking institution to sell certain securities which he considers undesirable (50*e* 57*b*, 70*b*).

REPORTS.

All banking institutions report to the superintendent not less than four times each year, at such times and in such form as he requires (108). The reports exhibit in detail and under appropriate heads a statement of resources, assets, and liabilities at the close of business of any past day specified by the superintendent; the day is uniform throughout the State (109). The reports are required to be sent to the superintendent within ten days after receipt of his request, and they must be published in a local newspaper (110). The superintendent may call for special reports whenever he thinks them necessary (111).

At the end of each fiscal year the superintendent reports to the governor, giving a summary of the condition of all reporting companies, with an abstract of their total capital, liabilities, and resources, classifying the report by corporations, specifying the amount held by the reporting banks in lawful money, and adding whatever other information he thinks necessary. This report also includes a statement of corporations whose business has been closed, with figures as to their liabilities and the amount paid their creditors; items with regard to the conduct of the department and its receipts from fees and penalties (114).

EXAMINATIONS.

Permission to begin business is not given until the superintendent has made a preliminary examination to assure himself that the proper amount of capital has been paid in, and that the names and residences of directors have been furnished, and that other preliminary requirements of law have been complied with (15).

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The superintendent or one of his examiners at least twice a year must thoroughly examine the cash, bills, securities, accounts, and affairs of all banking corporations (96). If the board of directors or the stockholders of a banking institution request it and the superintendent thinks such an examination desirable, a special examination may be made (93). All examinations must be made without previous notice to the corporation examined (104).

A committee of at least two directors or stockholders is appointed annually by the board of directors to examine the assets and liabilities of the corporation and to report the result to the board of directors. These reports are filed with the superintendent (30).

V.—Discount and Loan Restrictions.

No banking corporation is allowed to loan money on pledge of shares of its own capital stock, unless so taking them is necessary to prevent loss upon a debt previously contracted (53). No loan is allowed to be made to an officer of any banking corporation unless duly authorized by a majority of the directors. When so authorized the loans must be made and secured in the same manner as loans to other persons (23). (See also VI, below.)

VI.—Investments.

No banking corporation is allowed to purchase or hold its own shares unless the purchase is necessary to prevent loss upon a previous debt, and stock so purchased must be sold within six months from its purchase on thirty days' notice from the superintendent of banks (53). No banking corporation may invest more than 20 per cent of its capital and surplus in any one stock, security, or loan, unless it be in obligations enumerated in paragraphs (*b*), (*c*), and (*d*) of section 50, digested under Banks, VI,

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infra, or in a building and vaults (64); as appears under Banks, however, there may be a greater single loan than this 20 per cent, by a commercial bank, if it is on farm-land mortgage (47).

VII.—Overdrafts.

Although there is no provision in the act expressly authorizing overdrafts, it seems clear they were contemplated as permissible, for in limiting the amount of individual loans both by commercial banks and by savings banks the act contains the expression, "including overdrafts" (47 and 63).

X.—Unauthorized Banking.

Corporations are not allowed to use names likely to mislead the public as to the character or purpose of the business authorized by the charter (3). No banking corporation is allowed to advertise by newspaper, letter head, etc., a larger capital than is actually paid in (38). No banking institution incorporated under the laws of any other State is permitted to do any banking business in Ohio except to lend money (80).

XI.—Penalties.

An officer or employee who certifies checks fraudulently suffers fine of not more than $5,000, or imprisonment not more than five years nor less than one year, or both (33). Officers and employees who are guilty of any of the frauds enumerated in section 44 are punished by imprisonment not more than thirty years, or fine not exceeding $10,000, or both (44). All persons connected with a banking institution who fail to appear when summoned to testify by the superintendent or refuse to answer forfeit $100 (97). Any person connected with a banking institution who aids in

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the receipt of funds when he knows the bank is insolvent suffers a fine of not more than $5,000, or imprisonment not more than five years, or both (116).

Corporations advertising a larger capital than actually paid in forfeit $500 for every offense (38).

If the superintendent or one of his employees fails to keep official information secret or makes false reports, he loses his office and suffers fine of not more than $500, or imprisonment for not less than one year or more than five years, or both. He is besides liable to the party damaged by his disclosures (106).

If a company fails to submit a report or to publish one after ten days' notice from the superintendent, it is subject to a penalty of $100 a day (112).

BANKS.

IV.—Reserve Requirements.

Commercial banks must keep a reserve of at least 15 per cent of the total deposits. Six per cent of demand deposits and 4 per cent of time deposits must be kept in the vaults of the bank in lawful money, national-bank notes, or bills, notes, and gold and silver certificates of the United States. The part of the reserve not kept in the vaults of the bank must be kept subject to demand in other banks or trust companies designated as depositaries by the directors in a resolution which they certify to the superintendents of banks (51).

V.—Discount and Loan Restrictions.

A commercial bank may receive deposits on which interest is allowed. It may lend on personal security, and discount, buy, and sell negotiable paper (49). The loan to any one person, firm, or corporation must not

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exceed 20 per cent of the paid-in capital and surplus of the bank unless the loan is secured by a first mortgage on improved farm property in a sum not to exceed 60 per cent of the value of the property. The total liabilities, including overdrafts, of any person, company, or firm, to any bank, either as principal debtor or as endorser, for money borrowed, must not exceed 20 per cent of the paid-in capital stock and surplus. Discount of commercial paper, however, is not considered as lending money (47).

Loans by a commercial bank upon real estate security may be made only upon a general resolution by a two-thirds vote of the directors, stating to what extent the officers may loan on real estate. The aggregate amount of such loans must not exceed 50 per cent of the capital, surplus, and deposits, except that a bank that combines commercial and savings business may lend up to 60 per cent on real estate if authorized by two-thirds of the directors. Loans made on real estate must be upon real estate in Ohio or in immediately adjacent States, and must not exceed, inclusive of prior incumbrances, 40 per cent of the value of the real estate, if unimproved, or 60 per cent if improved (48).

See also VI, below.

VI.—Investments.

Commercial banks may hold real estate only as follows: (*a*) Real estate on which its business buildings are erected, but the cost of this real estate must not exceed 60 per cent of capital and surplus, (*b*) real estate mortgaged to the corporation to secure loans, (*c*) real estate purchased by the corporation at sales for closing liens held by the corporation, but this real estate must be sold within five years; (*d*) leasehold for business purposes (46).

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Commercial banks may invest their capital, surplus, and deposits in or loan them upon the following: (*a*) Personal or collateral securities; (*b*) securities of the United States or foreign governments; (*c*) bonds of States of the United States; (*d*) securities of political subdivisions of States of the United States and of Canada; (*e*) mortgage bonds of any corporation which has paid dividends at 4 per cent for four years, but the bank must not invest in this sort of security at a rate of more than 80 per cent of the market value of the bonds, and the superintendent may order that undesirable securities be sold within six months; (*f*) notes secured by mortgages on realty where the amount loaned, including prior incumbrances, is not over 40 per cent of the value of the realty if unimproved and not over 60 per cent if improved; but not more than 50 per cent of the capital, surplus, and deposits of a bank may be invested in real estate securities of this sort (50).

SAVINGS BANKS.

IV.—Reserve Requirements.

Savings banks are required to keep as a reserve the same percentage of their total deposits as commercial banks are, but savings banks may invest one-half of the reserve required to be kept in vaults in the securities enumerated in (*b*) and (*c*) of section 50 (*supra*); and where the reserve of any savings bank required to be kept in its vaults is over $500,000, that excess may be invested in securities of the United States (56).

V.—Discount, Loan, and Deposit Restrictions.

The total liabilities, including overdrafts, of any person, firm, or corporation to a savings bank for money borrowed, must not exceed 20 per cent of the capital and

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surplus, but the discount of business paper is not considered as money borrowed (63).

Any savings bank may receive on deposit any sum of money that may be offered for deposit by any person, firm, or corporation, or by any municipality or State, or that may be ordered deposited by any court. It may pay such interest as is agreed upon (55).

See also VI, below.

VI.—Investments.

Savings banks may hold land as commercial banks may (54; and see 46).

After providing for their reserve, savings banks may invest the residue of their funds in, or loan money on, discount, buy, or sell commercial paper, and may invest their capital, surplus, and deposits in, and buy and sell the following: (*a*) The securities mentioned in (*a*), (*b*), (*c*), (*d*), (*e*), and (*f*) of section 50 (*supra*), except that savings banks may loan not more than 75 per cent of capital, surplus, and deposits on notes secured by mortgage of realty. Loans on personal security must be on the obligation of more than one person, must be payable not more than six months from their date, and must not exceed in the aggregate 30 per cent of the capital, surplus, and deposits of the investing savings bank. (*b*) Stocks which have paid dividends for five consecutive years; also bonds and notes of corporations, if the board of directors or the executive committee of the investing savings bank so vote. Savings banks shall not invest in stock of other banking corporations. The superintendent may order undesirable securities sold within six months. (*c*) Promissory notes, if secured by collateral approved by the directors (57).

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TRUST COMPANIES.

I.—Terms of Incorporation.

There are the following special provisions for the capital of trust companies: No trust company may accept trusts until the paid-in capital of the corporation is not less than $100,000 and until the corporation has deposited with the state treasurer $50,000 if its capital is $200,000 or less, and $100,000 if its capital is more than $200,000. This deposit may be in cash, in bonds of the United States, of Ohio, of municipalities in Ohio or in other States, and in first-mortgage bonds of railroad corporations that have paid dividends of 3 per cent for five years. The treasurer holds this fund as security for the company's performance of trusts. The securities may be exchanged (69). The trust deposits, accounts, investments, etc., are required to be kept separately (73 and 76).

III.—Supervision.

Control of the trust business is assured by the deposits with the state treasurer (69).

EXAMINATIONS.

A court in which a trust company is acting as trustee has authority to appoint persons to investigate the corporation with respect to the trust in question. Courts may examine trust companies which they purpose making trustees (77).

IV.—Reserve Requirements.

Trust companies are required to keep the same reserve as savings banks (*supra*), but they need not keep a reserve upon trust funds (75).

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V.—Discount and Loan Restrictions.

No trust company is allowed to lend except on security of bonds or stocks such as the corporation is allowed to invest in, or mortgage on real estate where the amount loaned, inclusive of prior encumbrances, does not exceed 60 per cent of the value of the real estate. No trust company is allowed to lend to any one person, firm, or corporation more than 20 per cent of its capital and surplus (72).

See also VI, below.

VI.—Investments.

Trust companies may hold real estate as commercial banks may (*supra*, 46). This is, however, exclusive of trust property (66).

The capital and surplus of trust companies, the deposits, and, unless the terms of a trust provide for other investment, the trust funds must, over and above the reserve, be invested in or loaned on the following: (*a*) The securities mentioned in (*b*), (*c*), (*d*), (*e*), and (*f*) of section 50 (*supra*), but trust companies are not allowed to loan more than 60 per cent of the capital, surplus, and deposits on notes secured by mortgage on real estate, and the investment in notes so secured may be made only if the directors approve; (*b*) stocks which have paid dividends for five years and bonds when they are authorized by the majority of the directors or the executive committee, but the superintendent may order undesirable securities sold within six months, (*c*) promissory notes when secured by collateral approved by the directors. Trust funds, together with the capital and surplus of the trust company, may be invested also in ground rents when authorized by the directors. Not more than 20 per cent of the capital and surplus may be invested in any one security or loan unless it be the securities in (*b*), (*c*), and (*d*) of section 50, or in providing a building and vaults (70 and 71).

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OKLAHOMA.

During the session of 1907–8, the legislature of Oklahoma passed an act, found at page 125 of the session laws, designed apparently to be a complete banking law. Two other laws on banking passed at that session, namely, that on page 145 and that on page 152, are both marked in the session laws as having been repealed by the act at page 125; since the act at page 125 became a law later than the other two, and repealed all laws inconsistent with it, it seems safe to assume that the acts at page 145 and 152 are, as stated in the session laws, repealed. The only other statute on the subject of banking passed after the revision of the territorial statutes of Oklahoma in 1903 and prior to 1908 is a 1905 act, that is clearly repealed by the recent banking law. Various amendments to the recent law, made still more recently, by the 1909 legislature, are included in the digest. In the Revision of 1903 is a chapter (VIII) on "Banks and banking," of which many sections are found in the recent banking act. It seems clear that the recent act, in repealing all acts inconsistent with it, meant to wipe out this chapter. Conceivably some of its provisions are still law, but if so the points to be determined are matters of statutory construction too nice to warrant hazarding opinions on them in this digest. The chapter in the Revision of 1903 is for these reasons disregarded. There is a chapter in the Revision of 1903

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at page 381 that deals with trust companies. Whether the statute of 1907–8, the terms of which are for the most part applicable to "banking corporations," or the trust company statute, which in its title is stated to apply to "savings and trust companies," applies to savings banks is a matter of doubt. The heading "Savings banks," is therefore abbreviated in the digest; the provisions of the act of 1097–8 are digested under the title "Banks," and those of the trust company chapter under the title "Trust companies." The Roman figures in parenthesis refer to the article of the act of 1907–8, and the Arabic figures refer to the section in the particular article, as renumbered by the 1909 amendments; this way of citing that act is adopted because so many of the references in the digest are thus shortened. Other citations explain themselves.

BANKS.

I.—Terms of Incorporation.

Banks are forbidden to do any business beyond the regular banking powers enumerated in the statute, unless they have complied with the laws of the state relating to trust companies (I, 3).

Incorporators must be approved by the commissioner (I, 1).

The capital stock must be fully paid up. It must be not less than $10,000 in towns of 500 or less; not less than $15,000 in towns of from 500 to 1,500; not less than $25,000 in cities and towns of from 1,500 to 6,000; not less than $50,000 in cities of 6,000 to 20,000; and not less than $100,000 in cities of over 20,000 (I, 4, amd. by 1909, p. 121). The shares are of $100 each (I, 1).

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Dividends may be declared from net profits, but before the declaration, not less than one-tenth of the net profits for the last preceding period must be carried to surplus fund until the fund amounts to 50 per cent of the capital. Dividends must be declared on January 1 and July 1, if at all, and must be reported to the bank commissioner (I, 23). Capital must never be withdrawn (I, 25).

(For restrictions on power to borrow, see V, *infra.*)

II.—Liabilities and Duties of Stockholders and Directors.

The shareholders of every bank are additionally liable for the amount of stock owned and no more (I, 9).

There must be from three to thirteen directors, each the holder of $500 of the stock of the bank. Any director or other person who participates in a violation of the banking laws is liable for all damages which the bank, its stockholders, depositors, or creditors may sustain. There must at be least two regular meetings a year, at each of which the directors examine thoroughly the affairs of the bank (I, 6). Any bank officer or employee who pays out the funds of the bank on check, order, or draft when the drawer has not the proper sum on deposit is liable to the bank for the amount paid (I, 30).

III.—Supervision.

The officer charged with the general duties of supervising banks is the bank commissioner, who holds office for four years, must not be an officer or employee of any bank or person interested financially in a bank, and must have had at least three years' practical experience as a banker (III, 1). His salary is $2,500 a year; he has eight assistants (III, 4, amd. by 1909, p. 119).

The bank commissioner must approve of the proposed incorporators of a banking corporation (I, 1). The bank

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commissioner fixes the maximum interest which banks may pay upon deposits, and when it appears from a report that a bank has received deposits in excess of ten times paid-in capital and surplus, deposits of other banks not included, he requires the bank to make the necessary increase in capital and surplus within thirty days, or cease receiving deposits (I, 3, amd. by 1909, pp. 120, 121). The commissioner approves of increases or decreases in the capital stock of banks (I, 5). He may remove unfit officers of banks (I, 7). He has authority in case of a violation of any of the provisions of the act by the officers or directors of any bank to close it and liquidate it (I, 8). If the reserve of any bank falls below the requirement, he notifies the bank to make it good, and if it fails to do so for thirty days he takes possession of it as insolvent (I, 11). Banks may voluntarily place their affairs under his control (I, 20). When a bank appears to be borrowing habitually for the purpose of reloaning, the commissioner requires it to pay off the borrowed money (I, 31). When the capital of any bank is impaired, the commissioner notifies it to make the impairment good within sixty days (I, 32). If any officer of a bank refuses to submit its affairs to inspection, or interferes with examination, the commissioner may proceed to wind up the bank's business (I, 35). In general, whenever any bank or trust company voluntarily places itself in the hands of the commissioner, or is adjudged insolvent or to have forfeited its franchise to conduct a banking business, or whenever the commissioner is satisfied of the insolvency of a bank or trust company, he may, after examining its affairs, take possession of it and wind up its business (II, 4).

REPORTS.

A list of names of stockholders, residences, and amounts held by each, is sent the commissioner as a preliminary

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to receiving his certificate of incorporation (I, 2). At least four times a year, and oftener if called upon, every bank reports to the commissioner in the form he prescribes, showing the resources and liabilities of the association at the close of business on a past day specified. This report must be transmitted to the commissioner within ten days after receipt of his request. It is published in a local newspaper. The commissioner may call for special reports whenever he thinks them necessary; they must relate to a date prior to the call (I, 17). The requirement of reports, whenever the commissioner calls for them, and at least four times a year, is extended to trust companies and such national banks as have taken advantage of the depositors' guaranty fund protection (III, 7). Ten days after a dividend is declared every bank must forward to the commissioner a statement of the dividend and the amount carried to surplus and undivided profits. Within ten days after the first of January every bank must send to the commissioner a statement of receipts and disbursements for the preceding year (I, 18). The examinations which directors make at least twice a year at regular meetings are recorded and forwarded to the bank commissioner (I, 6). A list of names and residences of shareholders, with the number of shares held by each, is sent to the commissioner each year (I, 34). Reports to the commissioner of average daily deposits for the preceding year are required, in order to determine assessments for the guaranty fund (II, 2, amd. by 1909, pp. 122, 123).

EXAMINATIONS.

The bank commissioner or one of his subordinates visits every bank and trust company at least twice a year and oftener if he thinks it advisable, to make a full examination into the condition of the corporation (III, 3). The commissioner makes a preliminary examination when the

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capital stock of any bank has been paid in in order to ascertain whether that and other preliminaries have been complied with (I, 2). The directors of banking associations, at regular meetings held at least twice a year, thoroughly examine the affairs of the bank (I, 6). In case of voluntary liquidations, the commissioner makes an examination to be certain that all liabilities have been paid (I, 21). Whenever any bank or trust company voluntarily puts itself into the hands of the commissioner, or whenever a bank or trust company is adjudged insolvent or to have forfeited its franchise, or whenever the commissioner is satisfied of the insolvency of a bank or trust company, he examines its affairs before taking possession (II, 4). After he has, with the assistance of the guaranty fund, seen the institution through its difficulties, he examines it, if its stockholders have undertaken to put it in condition to resume business, before allowing it to reopen, in order to make sure its assets are repaired, advances from the guaranty fund repaid, etc. (II, 8).

IV.—Reserve Requirements.

Every bank is required to have on hand in available funds the following sums: In towns or cities of less than 2,500, an amount equal to 20 per cent of entire deposits; in cities of over 2,500, an amount equal to 25 per cent of entire deposits. Two-thirds of this reserve may consist of balances due from good solvent banks approved by the bank commissioner; one-third must be cash. Moreover, any bank that has been made depositary for the reserve of another bank must keep a 25 per cent reserve. When the available funds fall below the requirements, the bank in question must not increase its liabilities, except by dealing in sight exchange, nor make dividends, until the reserve has been restored. The commissioner in notifying such a bank of its delinquency may refuse to consider as reserves

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balances due from associations which fail to furnish information required by him to enable him to determine their solvency (I, 11).

V.—Discount, Loan, and Deposit Restrictions.

Among the powers of banking corporations is that of lending money on chattel and personal security, or on real estate secured by first mortgages running not longer than a year; but the loans on real estate must not exceed 20 per cent of the loans of the bank (I, 3, amd. by 1909, pp. 120, 121). No bank may loan on shares of its own stock unless it is necessary to take this security to prevent loss upon a previous debt, in which case the stock must be gotten rid of within six months (I, 10 and 39).

The total liabilities to any bank of any person, company, or firm for money borrowed, including in firm or company liabilities those of the members, must not exceed 20 per cent of the capital of the bank paid in; the discount of bills of exchange and of commercial paper actually owned by those discounting it is not considered as money borrowed (I, 12). The total indebtedness of the stockholders of any incorporated bank to the bank must never exceed 50 per cent of its paid-up capital (I, 39). No active managing officer of any bank organized under Oklahoma law may borrow from his bank, directly or indirectly (I, 14). Compare with the last-stated provision the older one, which made it a misdemeanor for the director of any corporation having banking powers to vote a loan or discount which would make the total loans and discounts exceed three times the capital paid in, or to vote a loan to a director in an amount in excess of one-third of the paid-in capital (R. S., 1903, 2545).

Banks must not pledge their assets as collateral so as to give depositors or creditors a preference, but any bank may borrow for temporary purposes not more than 50 per cent

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of its paid-up capital, pledging assets as collateral. Whenever it appears to the commissioner that a bank is borrowing habitually in order to reloan, he may require it to pay back the money borrowed. Any bank may rediscount and indorse its negotiable notes (I, 31).

No bank may receive deposits in excess of ten times its paid-up capital and surplus, deposits of other banks not included (I, 3, amd. by 1909, pp. 120, 121).

VI.—Investments.

A bank may hold such real estate as is necessary for the convenient transaction of its business, but this must not exceed in value one-third of the paid-in capital; such real estate as is conveyed to the bank in satisfaction of previous debts; and such as the bank purchases at judicial sale under securities held by it, provided it does not bid more than enough to satisfy the debt and interest. Except the real estate held for its own accommodation in business, the bank must not hold real estate longer than five years; within thirty days after the expiration of that time it must sell it (I, 37). No bank may engage in trade or commerce, nor invest its funds in the stock of any other "bank or incorporation," nor hold shares of its own stock, unless necessary to prevent loss on a previous debt, in which case it must sell the stock within six months from the date it acquired it (I, 10).

VII.—Overdrafts.

Any officer or employee of a "bank, banking association, or savings bank" who knowingly overdraws his account is guilty of a misdemeanor (R. S., 1903, 2550).

X.—Unauthorized Banking.

It is unlawful for any individual, firm, or corporation to receive deposits or do a banking business except under

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the banking or trust company statute. Violation of this prohibition, either individually or as a member of some association or corporation, is a misdemeanor, punishable by a fine of from $300 to $1,000, by imprisonment of from thirty days to one year, or both (I, 16). An officer who receives deposits in a bank after its authority to transact a banking business has been revoked is subject to the same penalty (I, 36).

XI.—Penalties.

Officers, directors, etc., who make false reports, false entries in books, etc., in order to deceive anyone concerned with the condition of the bank, are guilty of a felony, punishable by a fine of not more than $1,000, imprisonment of not more than five years, or both (I, 13). Any officer, director, etc., who receives deposits with knowledge of his bank's insolvency is guilty of a felony, punishable by a fine of not more than $5,000, imprisonment for not more than five years, or both (I, 15). Officers, directors, employees, etc., who fail to perform duties required by the statute, or fail to conform to the requirements of the commissioner, are guilty of a felony, punishable by a fine of not more than $1,000, imprisonment of not more than five years, or both (I, 26). Any active managing officer of a bank who borrows from the bank, and any officer authorizing such a loan, is guilty of larceny of the amount borrowed (I, 14). It is also a felony to certify a check for which there are no funds (I, 28), or to commit various frauds in the nature of embezzlement (I, 29). The banking board may pay sums of $500 out of the guaranty fund as rewards for securing the conviction of an officer, director, etc., who violates the law (I, 27).

If any officer or employee of a bank advertises the deposits of the corporation as guaranteed by the State of Oklahoma, he is guilty of a misdemeanor punishable by a

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fine not to exceed $500, imprisonment for thirty days, or both (II, 7, amd. by 1909, pp. 123, 124).

Failure to report subjects a bank to a penalty of $50 a day (I, 19).

The bank commissioner, or assistant, who neglects to perform any duty or makes a false statement, or is guilty of misconduct in office, commits a felony, punishable by removal from office in addition to any other penalties that may be provided (III, 8).

XII.—Depositors' Guaranty System.

In Article II of the act of 1907–8 as amended, are found the special Oklahoma provisions for the depositors' guaranty fund. This fund is under the control of the state banking board, composed of the governor, the lieutenant-governor, the president of the board of agriculture, the state treasurer, and the state auditor (II, 1). The second section of the act was amended by the 1909 legislature to provide a somewhat different system of assessment from that originally designed. The section as amended levies an assessment against the capital stock of every bank and trust company organized or existing under the Oklahoma statutes in order to create a guaranty fund equal to 5 per cent of the average daily deposits of the institution during its continuance in business. The assessments are payable one-fifth during the first year and one-twentieth during each of the following years until a 5 per cent assessment has been fully paid. Whatever assessments were paid under the statute before it was amended are credited to the banks making them. Every year each bank and trust company reports the average daily deposits for the preceding year. After the 5 per cent assessment has been fully paid, no additional assessments are levied except those required by emergencies and those made necessary by increased deposits in banks. Whenever the guaranty

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fund is reduced below 5 per cent of all deposits by reason of payments to depositors of failed banks, the board levies emergency assessments sufficient to restore the impairment up to 5 per cent, but the aggregate of these emergency assessments must never in any one calendar year exceed 2 per cent of average daily deposits of all banks and trust companies. If the amount realized from emergency assessments is insufficient to pay claims against all failed banks, the board delivers to each depositor having an unpaid deposit a certificate of indebtedness bearing 6 per cent interest. These certificates are payable out of emergency assessments which the board levies from year to year until all the certificates with their accrued interest are fully paid. As rapidly as the assets of failed banks are realized upon by the commissioner they are applied to the repayment to the guaranty fund of all moneys paid out to depositors, and toward refunding emergency assessments. Seventy-five per cent of the depositors' guaranty fund is invested for the benefit of the fund in state warrants or other securities of the sort in which state funds are invested (II, 2, amd. by 1909, pp. 122, 123). Banks and trust companies organized after the enactment of the statute pay 3 per cent of their capital when they open for business, which amount constitutes a credit fund subject to adjustment at the end of a year on the basis of average deposits. This 3 per cent payment is not required of consolidations of institutions which have complied with the statute (II, 3).

Whenever a bank or trust company voluntarily places itself in the hands of the commissioner, or when it is insolvent or has forfeited its franchise, or whenever the commissioner is satisfied of its insolvency, he may, after due examination of its affairs, take possession and liquidate it (II, 4). The depositors of such an insolvent bank or trust company are to be paid in full; and if the available cash is insufficient to do this then the banking board draws

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upon the guaranty fund and makes, if necessary, additional assessments so as to pay these depositors. The State has, for the benefit of the guaranty fund, a first lien upon all the assets of the insolvent corporation (II, 5). The bank commissioner liquidates the corporation with full receiver's powers (II, 6).

The commissioner delivers to every bank or trust company which complies with the provisions of the statute a certificate stating that safety to its depositors is guaranteed by the depositors' guaranty fund of Oklahoma. This certificate is displayed in the place of business of the corporation, which may also advertise to the effect that it is protected by the guaranty fund. No bank, however, may be permitted to advertise its deposits as guaranteed by the State of Oklahoma (II, 7, amd. by 1909, pp. 123, 124).

After the commissioner has taken possession, a bank or trust company may nevertheless place itself in condition to do business again, but may not reopen until the commissioner has carefully investigated its affairs and has assured himself that its credits and funds are repaired and all advances from the guaranty fund have been fully repaid (II, 8).

SAVINGS BANKS.

There seems to be no legislation dealing specifically with savings banks. The act of 1908, when it says "banks" and "banking corporations," may or may not be interpreted to include savings banks. The restriction upon receipt of deposits while insolvent (I, 15), given under Banks, probably does not apply to savings banks, but a similar provision in the Revised Statutes, with higher penalties, perhaps does, for its language is "bank, banking house, * * * company, corporation, or parties engaged in the banking, broker, or deposit business" (R. S.,

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1903, sec. 2551). Also the provisions making directors guilty of a misdemeanor if they loan beyond three times the capital stock of the corporation or loan to a director in excess of one-third of the capital stock seem applicable to savings banks, for the language is "any corporation having banking powers" (R. S., 1903, sec. 2545). The provision making it a misdemeanor for any officer or employee to overdraw his account is made applicable specifically to savings banks (R. S., 1903, sec. 2550).

One section of the act of 1907–8 applies to savings banks: "All savings associations which do not transact a general banking business" must keep on hand in actual cash 10 per cent of deposits, and a like sum invested in good bonds of the United States, Oklahoma, or municipalities of Oklahoma, worth not less than par (I, 11).

TRUST COMPANIES.

I.—Terms of Incorporation.

Among trust company powers is that "to receive money in trust or on general deposit with or without interest * * * and to accept and receive savings accounts" (R. S., 1903, sec. 1122, amd. by 1905, pp. 150, 151). Moreover, in the prohibition on unauthorized banking is the exception, "except as authorized by this act (i. e., the banking law of 1907–8), or by the laws relating to trust companies" (I, 16).

The capital stock of every trust company must be not less than $100,000 in towns of less than 10,000, and not less than $200,000 in towns of over 10,000. One-half must be paid in before business is begun. The other half of the capital stock must be paid in within six months after organization. The total capital must not be more than $10,000,000 (R. S., 1903, sec. 1124; and 1903, p. 85).

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Dividends may be declared every six months or oftener, but not while the corporation is insolvent nor so as to render it insolvent (R. S., 1903, sec. 1125).

II.—Liabilities and Duties of Stockholders and Directors.

Every stockholder in a trust company is individually liable for the debts of the corporation to double the amount that is unpaid on the stock held by him (R. S., 1903, sec. 1134).

There must be not less than five nor more than twenty-five directors, stockholders in the corporation (R. S., 1903, sec. 1124). If the directors knowingly pay dividends when the corporation is insolvent, or so as to make it insolvent, they are liable for all debts contracted while they are in office (R. S., 1903, sec. 1125).

III.—Supervision.

Trust companies are subject to the provisions of Article II, section 4, of the act of 1907–8, which allows the bank commissioner to take possession of insolvent corporations. A section of the old trust company statute, moreover, provided that if after examination a trust company was found insolvent the "bank examiner of this Territory" should immediately take charge of the assets of the company; he should then make a thorough examination and if satisfied that the company could not resume business or liquidate its debts he should institute proceedings for a receiver (R. S., 1903, sec. 1135). This is, no doubt, superseded by the 1908 statute, which provides for the commissioner's acting as receiver (II, 4).

Trust companies deposit $50,000 in certain securities to secure their fiduciary obligations. If the sum named is less than one-half the annual premiums and compensa-

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tions of any company, it must be increased to equal that fraction (R. S., 1903, sec. 1133, amd. by 1905, pp. 151 *et seq.*).

REPORTS.

Full reports of the condition of each trust company were, by the trust company act in the Revised Statutes, required to be exhibited by the directors to the stockholders annually before elections. The same section provided that whenever the secretary of the treasury required, each trust company should, within fifteen days from the secretary's call, furnish a statement in the form the secretary prescribed, showing the condition of the corporation at the close of business on a past day, a summary of this statement being published in a local newspaper (R. S., 1903, sec. 1126). This requirement must for the most part be superseded by the provision of the 1908 statute, which gives the bank commissioner power at any time he deems it necessary, and at least four times a year, to call upon every trust company for a report of the company's condition on a given past day (III, 7). Trust companies subject to the guaranty fund system must also report average daily deposits at the end of the year, as required of banks (II, 2, amd. by 1909, pp. 122, 123). Trust companies must annually report the amount of their premiums and compensations to determine the amount of their deposit with the state treasurer (R. S., 1903, sec. 1133, amd. by 1905, pp. 151 *et seq.*).

EXAMINATIONS.

The bank commissioner or a subordinate at least twice a year, and oftener if he deems it advisable, visits each bank and trust company that is subject to the provisions of the 1908 statute to examine the condition of the company's affairs (III, 3).

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See Banks, III, for the examinations required to be made at the beginning and at the end of the commissioner's possession of a trust company as receiver (II, 4 and 8).

V.—Discount and Loan Restrictions.

If trust companies are "corporations having banking powers," then it is a misdemeanor for directors to vote to make a loan whereby the total loans of the corporation are made to exceed three times its paid-in capital, or to make a loan to a director, or upon paper upon which he is liable, to an amount exceeding one-third of the paid-in capital (R. S., 1903, sec. 2545).

Trust companies have power to loan on "real estate and collateral security." The notes and debentures issued by any trust company must not exceed ten times the paid-up capital, and they must not exceed the amount of the first mortgages pledged to secure them (R. S., 1903, sec. 1122).

VI.—Investments.

Trust companies have power to buy and sell bonds of Oklahoma, all other kinds of government, state, or municipal bonds, all kinds of negotiable and nonnegotiable paper, "stocks, and other investment securities" (R. S., 1903, sec. 1122). The directors of a trust company have power to invest "the moneys placed in their charge" in loans secured by real estate or other sufficient collateral, in United States or Oklahoma bonds, and in the bonds of any State or municipality in Oklahoma or in the Indian Territory. Trust companies may hold only such real estate as required in the transaction of their business and such as they acquire in the enforcement of liabilities due them (R. S., 1903, sec. 1125).

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VII.—Overdrafts.

The only provision relative to overdrafts is that stated under Banks, making every officer or employee of any "banking association" who knowingly overdraws his account guilty of a misdemeanor (R. S., 1903, sec. 2550).

X.—Unauthorized Banking.

See X, under Banks.

XI.—Penalties.

The penalties given under Banks are none of them framed in language inclusive of trust companies, although such a penalty as that upon officers who advertise that deposits are guaranteed by the State of Oklahoma ought to be applicable to the two sorts of institutions indiscriminately.

Under the trust company act officers or directors who refuse to make statements required of them, or make false statements, are guilty of a misdemeanor, punishable by a fine not exceeding $500, imprisonment of from one to twelve months, or both (R. S., 1903, sec. 1126). If trust companies are "corporations engaged in banking, broker, or deposit business" then any officer, director, etc., of a trust company who receives deposits with knowledge of the insolvency of the company is guilty of a felony, punishable by imprisonment "in the territorial prison" for not less than ten years, imprisonment in the county jail for not more than one year, fine of not more than $10,000, or both fine and imprisonment (R. S., 1903, sec. 2551). (See also Revised Statutes, 1903, section 2545, making it a misdemeanor for directors of "any corporation having banking powers" to vote loans in excess of three times the capital paid in, or to vote a loan to a director exceeding one-third of the paid-in capital.)

XII.—Depositors' Guaranty System.

See XII, under Banks.

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OREGON.

The most recent revision of the statutes of Oregon, that of 1902, by Bellinger and Cotton, contains only a few, and those very unimportant, provisions with regard to banks. The most important legislation on the topic is in chapter 138 of the laws of 1907, though chapters 148 and 265 of the same year also contain banking provisions. The session laws from 1902 through 1909 contain nothing that has been thought worth incorporating in the digest. References in the digest, where they are simply numbers in parenthesis, are to sections of chapter 138 of 1907. There is no separate legislation for savings banks and trust companies, but chapter 138 provides that "any person, firm, or corporation (except national banks) having a place of business within this State where credits are opened by the deposit or collection of money or currency or negotiable paper subject to be paid or remitted upon draft, receipt, check, or order shall be regarded as a bank or banker and as doing a banking business under the provisions of this act" (7). Moreover, section 8 specifically places savings banks under the provisions of the act, and section 35 expressly makes the word bank inclusive of the banking or savings department of any trust company that does a banking or savings business. The provisions digested under "Banks," therefore, must be considered applicable to savings banks and trust companies as well.

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BANKS.

I.—Terms of Incorporation.

Banking corporations may be formed to do a banking business, a savings banking business, or both (8). Although not expressly authorized to do a trust-company business, that power may be inferred from the section which, after limiting real-estate holdings, provides that these restrictions do not apply to real estate bought with other funds than the capital and resources nor to real estate held in trust (15). Trust companies may clearly do a banking business, for the statute provides that they may use the name "trust company" without compliance with the act if they are not doing a banking business; besides, companies which have any other department than a banking department must conduct it separately (9).

The requirement for capital declares that it is unlawful for any person, firm, or corporation to transact a banking business without "capital stock as follows:" In cities, villages, and communities of 1,000 or less, $10,000; in those of 1,000 to 2,000, $25,000; in cities of 2,000 to 5,000, $30,000; in cities of 5,000 and upward, $50,000 (8). Presumably these requirements are for minimum capital.

At least 50 per cent of the capital must be paid in before business is begun; the remainder must be paid in within six months (10).

Dividends may be declared out of net profits, but before they are declared not less than one-tenth of the net profits for the preceding dividend period must be carried to surplus until the surplus amounts to 20 per cent of the paid capital (17).

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II.—Liabilities and Duties of Stockholders and Directors.

There is no particular provision for stockholders' liability in banks.

Banking corporations must have not fewer than three directors (8), each of whom must own at least $500 par value of stock. A majority must meet at least once every three months and examine the affairs of the bank (16). If the directors knowingly allow any officer, director, or employee, or the state bank examiner or one of his employees, to borrow funds of their bank in an excessive or dishonest manner, each director participating in the loan is personally liable for all damage which any person sustains in consequence (22).

III.—Supervision.

There is a board of bank commissioners composed of the governor, the secretary of state, and the state treasurer, who appoint a bank examiner for terms of four years. The examiner must have had at least three years' practical experience in banking or have served for three years in some state banking department. While in office he may not have any interest in any banking business (1), nor may any of his assistants (3). The examiner's salary is $3,000 a year (5). The examiner and his assistants are forbidden to disclose any information obtained in the performance of their duties except so far as the banking act makes it incumbent upon them to publish the information. Names of depositors and debtors, amounts of deposits and debts, must only be disclosed in the course of duty (33). Banks or bankers may present charges against the examiner to the board of bank commissioners, who, after a hearing, may remove him from office (41).

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The bank examiner approves of reserve depositaries (23). If by canceling unpaid shares the capital of a bank is reduced below the minimum and is not increased to the required amount within thirty days, the bank's affairs may be wound up (11). If upon examination or from a report it appears that capital is reduced by impairment or otherwise, the examiner requires the bank to make good the deficiency. He may examine the bank later to see if the deficiency has been made good; if it has not been, he proceeds for a dissolution (29). These proceedings may follow not only impairment of capital, but a finding by the examiner from examination or report that a bank is insolvent or in a condition to render continuation of business hazardous, or a finding that it has exceeded its powers or failed to comply with law. The examiner reports to the board of bank commissioners and may take immediate possession of the bank's affairs. If the board, after inquiry into the facts, consider it necessary in the interests of creditors, etc., or if they believe the bank is in a condition to render further business hazardous, or has exceeded its powers, failed to comply with law, failed to submit to examination and publish reports, or if they believe its capital is impaired, they may report to the attorney-general, who thereupon proceeds in the name of the bank examiner to cause the bank to discontinue business. A receiver is appointed by court (30).

REPORTS.

Calls are made by the bank examiner for reports simultaneously with the issue of calls by the Comptroller of the Currency for national-bank reports. The reports, in the form prescribed by the examiner, show total resources and liabilities on a past day specified by him, and must be transmitted to him within ten days after receipt of his request. Abstracts of them are published in a local

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newpaper (24). The examiner annually reports to the board of bank commissioners, showing the published abstract of the last report of each bank, any other proceedings done by him, the condition of banking business in the State, and the affairs of the examiner's office (25).

The examiner reports to the board deposits in any bank which have not been added to or reduced for seven years. The board prescribes how the examiner is to publish these facts (42). The cashier or secretary of every institution in which deposits of money are made returns every second year to the secretary of state a statement of the amount standing to the credit of every depositor who has not deposited or withdrawn money for more than seven years, showing also the last known address of the depositor and the fact of his death, if known. The reporting officer publishes these statements weekly for four weeks in a local newspaper. Where the depositor is known to be dead, the deposit need not be reported (1907, chap. 148, 1). The secretary of state biennially reports these deposits to the attorney-general, and they are treated as having escheated to the State (1907, chap. 148, 2, amd. by 1909, chap. 36).

(For reports required for purposes of taxation see 1907, chapter 265, sections 2, 5, and 6, for reports from depositaries of public funds see chapter 135 of the laws of 1907.)

EXAMINATIONS.

At least once a year, and oftener if the examiner thinks it necessary, he must without previous notice examine the affairs of every bank (26). All examinations must be personally conducted by the examiner (5). Incidental to proceedings for a receivership may be an examination by the examiner (29), and an "inquiry into the facts" by the board of bank commissioners (30). A majority of the directors of every bank at their meeting at least every

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three months must examine all loans, paper, securities, liabilities, and resources of the bank (16).

IV.—Reserve Requirements.

Every bank doing business in cities or towns of less than 50,000 must keep on hand in actual cash or balances due from good solvent banks to be approved by the examiner not less than 15 per cent of demand liabilities and 10 per cent of time deposits. Every bank doing a business in cities of over 50,000 must keep on hand in the same form not less than 25 per cent of demand liabilities and 10 per cent of time deposits. At least one-third of the reserve percentages must be in cash (23).

V.—Discount and Loan Restrictions.

The total liability to any bank of any person, firm, or corporation for money loaned, including in firm or company liabilities those of the members, must never exceed 25 per cent of paid-in capital and surplus, but the discount of bills of exchange drawn in good faith against existing values and the discount of paper owned by the persons negotiating it, and loans secured by real estate, personal property, warehouse receipts, etc., are not within this limitation, if the loan does not exceed 75 per cent of the value of the paper, warehouse receipts, or personal property, nor exceeds 50 per cent of the value of the real estate, if that is given as security (20).

No officer, owner, or employee of a bank, nor the bank examiner, nor any employee of his, is allowed to borrow from the bank, whether he gives security or not, without the approval of a majority of the directors or an executive board or discounting committee chosen by a majority of the directors (22).

No bank may take its own capital stock as collateral except when necessary to prevent loss on a previous debt,

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in which case the stock must be sold within twelve months (13).

VI.—Investments.

Real estate may be held only as follows: Such as is necessary for the transaction of the bank's business, including banking offices and certain premises in the same building which may be rented, but this investment must not exceed 50 per cent of capital, surplus, and undivided profits; such real estate as is taken by the bank in satisfaction of previous debts; such real estate as the bank purchases at sale under decrees or foreclosures under securities held by it. Except for the first sort of real estate, none may be held for longer than five years; if not then sold, it may not be carried as an asset (15). The lots on which the banking building is situated must be unincumbered (8).

No bank may purchase its own stock except when necessary to prevent loss on a previous debt, in which case the stock must be sold within six months (13).

VIII.—Branches.

Every bank with one or more offices in Oregon must maintain at every office a capital not less than that required for the organization of separate banks (35).

X.—Unauthorized Banking.

Except national banks, no person, firm, or corporation may carry on a banking business except on compliance with the act of 1907, nor may, without compliance with it, use the terms "bank," "banker," "bankers," "banking house," or "trust company." Trust companies which do not do a banking business may use the term "trust company" without compliance with the banking statutes. Any person, firm, or corporation that violates

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these provisions after thirty days' notice from the examiner is guilty of a misdemeanor, punishable by fine of from $20 to $100 a day (9). It is forbidden to advertise in any way greater capital, surplus, or undivided profits than are maintained (35).

XI.—Penalties.

Owners or officers of any bank who receive deposits with knowledge of the bank's insolvency are guilty of a felony punishable by fine of not more than $1,000, imprisonment not exceeding two years, or both (18). Owners, officers, and employees who certify to checks for which there is not the required amount to the credit of the drawer are guilty of a misdemeanor, punishable by fine not to exceed $1,000 (21). Failure to furnish and publish the reports to the examiner is punishable by fine upon the owners and officers of the offending bank of $50 a day (24). Failure by the cashier or secretary to report dormant deposits to the secretary of state is punishable by fine of from $50 to $1,000, imprisonment of from ten to ninety days, or both (1907, chap. 148, 3). Officers, owners, or employees who misrepresent the condition of their bank to the examiner are punished by fine of $1,000, imprisonment for not less than six months, or both (27).

If the examiner proceeds maliciously or without reasonable cause against a bank for insolvency, impairment of capital, etc., he is not only liable on his bond for damages resulting, but guilty of a felony punishable by a fine of not less than $1,000, imprisonment for not more than two years, or both (30). If the examiner or his assistant discloses information outside his duty he is punished by a fine of $1,000, imprisonment for not less than six months, or both, he also loses his office (33).

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SAVINGS BANKS.

See preliminary paragraph under this State. Savings banks are subject to all the provisions of the act of 1907 (7). Savings banking and regular banking business may be combined (8).

TRUST COMPANIES.

Trust companies, if they have a place of business "where credits are opened by deposit or collection of money or currency or negotiable paper subject to be paid or remitted upon draft, receipt, check, or order" are subject to all the provisions of the act of 1907 (7). They may call themselves "trust companies" without being subject to the act only if they do no banking business (9). There is a provision in section 9 which, though not wholly clear in its application, seems to mean that trust companies must keep their trust department distinct from their banking or savings banking department. After forbidding the use of certain words except upon compliance with the act, and prescribing that trust companies may call themselves by that name without compliance with the act if they do not do a banking business, the section goes on. "No assets, funds, properties, or investments of any other department shall be included in any statement of such banking or savings department as herein defined, and all such capital, assets, funds, properties, and investments of such banking or savings department shall be kept separate and distinct from all other capital, assets, funds, properties, and investments of such company." See also the provision of section 35, which provides that the word bank in the statute is to include the banking or savings department of any trust company doing a banking or savings business.

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PENNSYLVANIA.

The condition of the statutes of this State makes it particularly difficult to determine just what the law is on many particular points. Instead of being reenacted in the form of revised laws they have been collected from time to time in various editions of Purdon's Digest, where it is often hard for the reader to tell what has been repealed and what is still in force. The banking statutes are reprinted in convenient form in a reprint compiled under an act of assembly, by direction of the commissioner of banking, by William Brown, jr., and Charles L. Brown, of the Philadelphia bar. The digest is based on this reprint, which includes legislation up to 1907; for later laws, the digest is based on a pamphlet edition, issued by the banking department, of those acts of 1907 which relate to banking, and on the published statutes of 1909. There must be considerable doubt what the law is on many points; these places are indicated, and the ambiguous language is quoted. The two most important statutes are the banking act of 1850 and the banking act of 1876. These two and their amendments are digested under "Banks;" they seem not to apply to other classes of banking institutions. Mr. John W. Morrison, deputy commissioner of banking in Pennsylvania, states that the act of 1850 is now obsolete. Since it has never been repealed, however, it is included in the digest, but, together with other statutes which Mr. Morrison declares to be obsolete, is, when inserted, inclosed in brackets. Citations in the digest follow the citations in the reprint above referred to.

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BANKS.

I.—Terms of Incorporation.

It is a constitutional provision that no corporation "to possess banking and discounting privileges" may be organized without three months' public notice at the place it is intended to be located, and that no charter may be granted for longer than twenty years (Const., art. 16, sec. 11.)

No corporation may be organized under the act of 1876 with a less capital than $50,000 if its principal place of business is in a town of more than 5,000, nor with a less capital than $25,000 if its principal place of business is in a town of less than 5,000. Shares must be of not less than $50 each (act 13th May, 1876, sec. 5, P. L., 161, amd. by act 3d May, 1909, No. 230). Banks having capital divided into shares of more than $50 each may reduce the par value of each share, but not so as to make it under $50 (act 14th June, 1879, sec. 1, P. L., 94). At least 50 per cent of the stock of any association incorporated under the act of 1876 must be paid in before business is begun, and the remainder in installments of at least 10 per cent of the whole capital every month (act 13th May, 1876, sec. 9, P. L., 161). A statute in 1883 provided that whenever a banking company had a capital subscribed of which not all had been paid in, and certificates had been issued for unpaid stock, the company could decrease its capital to the amount paid in, but must not decrease its capital to less than $200,000 (act 22d June, 1883, sec. 2, P. L., 155).

[The act of 1850 provided a system of voting whereby each share, not exceeding two, entitled the holder to one vote; each two shares above two not exceeding ten entitled him to one vote; each four shares above ten not

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exceeding thirty, one vote; every ten shares above thirty not exceeding fifty, one vote; above fifty, additional shares conferred no right to vote whatever. Under this act also shares had to be held three months before the election to be voted on (act 16th April, 1850, sec. 10, art. 4, P. L., 477). This was altered with respect to "the banks of this Commonwealth" so that every share not exceeding ten entitled the holder to one vote; every two shares from ten to twenty, one vote; every five shares from thirty to one hundred, one vote; and every ten shares above one hundred, one vote (act 17th April, 1861, sec. 2, P. L., 342).] The act of 1876 provides that "in all elections for directors and otherwise" every shareholder is entitled to one vote on each share of stock he holds (act 13th May, 1876, sec. 14, P. L., 161).

[By the act of 1850 dividends must be declared at least twice a year on the first Tuesday of May and November, payable within ten days thereafter; these dividends must not exceed net profits, nor may they impair capital (act 16th April, 1850, sec. 10, art. 12, P. L., 477).] Under the act of 1876 directors of corporations may declare quarterly or semiannual dividends out of net profits, payable within fifteen days after the declaration; before declaring a dividend, however, each corporation must carry "at least one-tenth of net profits for the preceding quarter, if it is a quarterly dividend, and at least one-tenth of the net profits of the preceding half year, to its surplus" until the surplus amounts to 25 per cent of capital (act 13th May, 1876, sec. 16, P. L., 161). Capital must not be withdrawn, and dividends may be declared only out of net profits (act 13th May, 1876, sec. 24, P. L., 161).

(For liabilities which a bank is allowed to incur see V, *infra.*)

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II.—Liabilities and Duties of Stockholders and Directors.

There was an act passed in 1874 which made stockholders in "banks, banking companies, saving-fund institutions, trust companies, and all other incorporated companies doing the business of banks, or loaning and discounting moneys as such," personally liable for debts and deposits to double the amount of the capital held by each (act 11th May, 1874, sec. 1, P. L., 135). Under the act of 1876 also, the shareholders of "any corporation formed under this act" are individually liable for "all contracts, debts, and engagements" of the corporation up to the amount of their stock at par in addition to the par value of the shares (act 13th May, 1876, sec. 5, P. L., 161).

For corporations organized under the act of 1876 there must be not less than five directors, all citizens of the United States and of Pennsylvania, and each the holder of at least ten shares of the capital of the corporation. One director must be president and another vice-president, but cashiers, clerks, and tellers are ineligible (act 13th May, 1876, sec. 12, P. L., 161). Under the same statute, if directors of corporations make dividends which impair capital, those who consent are liable individually to the corporation for the stock divided (act 13th May, 1876, sec. 16, P. L., 161). A statute of 1901, applicable apparently to all corporations, allows the stockholders to fix the number of directors as they choose, except that there must be not fewer than three (act 19th April, 1901, P. L., 80).

[Earlier legislation with regard to directors is briefly as follows: No judge or person holding office under the State in the treasury department, or in land offices, etc., may be director of a bank (act 27th January, 1819, sec. 3, 7 Sm. L., 148). Bank directors under an act passed

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in 1843 were eligible three years out of any four, but no person was allowed to be a director of more than one bank at the same time (act 18th April, 1843, sec. 8, P. L., 309). The act of 1850 required the affairs of every bank to be conducted by thirteen directors, all citizens of the United States and stockholders of the bank; it forbade any one to be directors in two banks and forbade the governor and certain public officers to be directors (act 16th April, 1850, sec. 10, P. L., 477). It was later enacted that the number of directors should not be less than five nor more than thirteen (act 17th April, 1861, sec. 1, P. L., 341). The act of 1850 again provided that directors should only be eligible for three years out of any four except the president (act 16th April, 1850, sec. 10, art. 2, P. L., 477). The same act forbade directors, except the president (extended to include vice-president, act 13th April, 1859, sec. 1, P. L., 613) to take any pay unless granted in stockholders' meeting (act 16th April, 1850, sec. 10, art. 6, P. L., 477). The same act required a general meeting of stockholders annually, at which time the directors must make a statement of the affairs of the bank (act 16th April, 1850, sec. 10, art. 9, P. L., 477). The same act made directors who declared dividends which impaired capital liable to the corporation for the capital divided (act 16th April, 1850, sec. 10, art. 12, P. L., 477). The same act provided that, in insolvency occasioned by fraud of the directors, those implicated in the fraud should be liable to stockholders and creditors for proportionate shares of losses (act 16th April, 1850, sec. 40, P. L., 477).] Another act provided that whenever "any bank, now or that may hereafter be incorporated under any law of this Commonwealth" should be declared fraudulently insolvent, the assignees of the bank should sue those who were officers and directors at the time of the assignment and those who had previously

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been officers and directors by whose act the insolvency had been caused, to get judgment for a sum equal to the outstanding paper issues and certificates of deposit of the bank (act 12th April, 1867, sec. 1, P. L., 71).

III.—Supervision.

An act passed in 1895 covers most of the points under supervision. It establishes a banking department at the head of which is the commissioner, who is to take care that the laws of the State in relation to banks, trust companies, savings banks, cooperative banking associations, surety companies, building and loan associations, etc., are being executed (act 11th February, 1895, sec. 1, P. L., 4). Unincorporated bankers are put under the supervision of the commissioner by act 7th June, 1907, P. L., 461. The commissioner is appointed for a term of four years with a salary of $6,000. Neither he nor his subordinate may be interested in any corporation subject to their supervision, nor may they divulge information acquired in department work (act 11th February, 1895, secs. 2 and 16, P. L., 4). Whenever it appears from a report, or the commissioner has reason to believe, that the capital of any corporation subject to the supervision of the department is reduced below the legal amount, or below the amount certified as being paid in, the commissioner requires the deficiency to be made good; and if the corporation fails for sixty days to make the impairment good the commissioner communicates the facts to the attorney-general, who proceeds in court for a dissolution (act 11th February, 1895, sec. 6, P. L., 4). In case any corporation refuses to submit its affairs to examination or is found to have violated any law of the State, the commissioner proceeds through the attorney-general as before (act 11th February, 1895, sec. 8, P. L., 4). If from an examination the commissioner has reason to believe that a corporation is in an unsound condition or is doing

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business contrary to public interests, or if for thirty days after his notification reserves are not made good (act 8th May, 1907, P. L., 189), the commissioner proceeds through the attorney-general for a receiver; if the commissioner thinks it immediately necessary he may, after a hearing before the attorney-general, appoint a temporary receiver (act 11th February, 1895, sec. 9, P. L., 4). When a receiver is appointed, on motion of the attorney-general, at the instance of the commissioner of banking, of the assets of any corporation, any previously appointed receiver must turn over possession to the one thus appointed (act 23d April, 1909, No. 117).

The following provisions were law before the act of 1895. If they continue in force it is with the commissioner in place of the auditor-general; the act of 1895 provides for substitution (act 11th February, 1895, sec. 10, P. L., 4). When the auditor-general has notified a corporation subject to the act of 1876 that it has committed an act of insolvency, he appoints a special agent to make inquiry; if this verifies the auditor's belief, the auditor applies to a court for a receiver (act 13th May, 1876, sec. 27, P. L., 161). Acts of insolvency under the statute of 1876 are defined in sections 11 and 26. [Under the act of 1850 the auditor-general could require certain returns from banks and when it appeared from a return that the limit of liabilities set by the act of 1850 had been violated, he could give notice to the governor, who would thereupon declare the charter of the bank forfeited (act 16th April, 1850, sec. 18, P. L., 477). Under the same act failure to redeem all obligations, notes, certificates of deposit, etc., in gold or silver coin was ground for requiring a general assignment and dissolving the bank (act 16th April, 1850, sec. 27, P. L., 477). Under the act of 1850 also the maintenance of a branch, without express authority from the legislature,

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was ground for loss of charter (act 16th April, 1850, sec. 50, P. L., 477).]

Under late legislation, the commissioner of banking approves of reserve depositaries (act 8th May, 1907, P. L., 189), and performs certain duties with respect to selecting state depositaries (act 17th February, 1906, sec. 1, P. L., 45).

REPORTS.

The prevailing statute on this subject provides that every corporation subject to the supervision of the banking department, makes to the commissioner not fewer than two reports of its condition each year in the form prescribed by him stating resources and liabilities on a past day specified by the commissioner; the report is transmitted to him within five days after the receipt of his request and an abstract of it is published in a local newspaper. The commissioner may call for special reports. This statute of 1895 enacts that the reports required by it are in lieu of all reports required by earlier laws (act 11th February, 1895, sec. 5, P. L., 4). In the same act it is provided that the commissioner makes an annual report to the governor setting forth the condition of all corporations reporting to him; a statement of the corporations under the supervision of the department whose business has been closed during the year; suggestions for amending the statutes; and details of department administration (act 11th February, 1895, sec. 12, P. L., 4). A late statute requires banks, savings banks, and trust companies to give with especial completeness in their reports to the commissioner their liabilities, to depositors, etc., and for money borrowed (act 12th June, 1907, P. L., 525).

The following provisions of earlier laws deal with reports (if they are still law, it is with the commissioner sub-

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stituted for the auditor in all matters except taxation—act 11th February, 1895, sec. 10, P. L., 4): One statute required banks, savings institutions, and other corporations to publish in a local newspaper once a year, a statement of dividends over $5, unclaimed for three years, setting forth the names and residences of the persons entitled to the dividends and their amounts (act 6th March, 1847, secs. 1 and 3, P. L., 222). Banks, together with all corporations receiving deposits of money, must publish annually names, residences, dates of deposits, and balances of depositors who have not dealt with their deposits for three years, and are now due over $10 (act 6th March, 1847, secs. 2 and 3, P. L., 222). [Under the act of 1850, the cashier of each bank was required to forward the auditor annually a list of persons who had not dealt with their deposits or dividends for three years (act 16th April, 1850, sec. 52, P. L., 477), and directors were required to make a statement annually to stockholders (act 16th April, 1850, sec. 10, art. 9, P. L., 477). Under the act of 1850 the auditor required the cashiers of banks to make quarterly returns of the affairs of their banks, which returns he tabulated for the legislature (act 16th April, 1850, secs. 11, 12, 13, 14, and 18, P. L., 477). Under the same statute a bank making an assignment was required to report to a local court a full statement of its affairs containing certain specified items (act 16th April, 1850, sec. 42, P. L., 477).] The act of 1876 requires the directors of corporations subject to it to keep a list of names and residences of stockholders, with the number of shares held by each, which list must be sent annually to the auditor-general (act 13th May, 1876, sec. 15, P. L., 161). The same statute requires the cashier of every bank to make a full statement of the condition of the corporation on the day previous to the declaration of each dividend setting forth amount of capital paid in,

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balances due to other banks, amount due to depositors, total of debts and greatest amount of debts since last previous statement, amount of paper, coin, etc., on hand, value of realty and personalty held, amount of undivided profits, liabilities to the corporation of directors and officers, and amount of liabilities to the corporation of stockholders (act 13th May, 1876, sec. 17, P. L., 161). The same statute requires the cashier of every corporation subject to it to publish every six months in a local newspaper a statement of the corporation's condition, setting forth total assets and total liabilities (act 13th May, 1876, sec. 22, P. L. 161), and requires publication of a notice in voluntary dissolution (act 13th May, 1876, sec. 25, P. L., 161). Reductions of capital stock must also be published (act 22d June, 1883, sec. 2, P. L., 155).

An act passed in 1897 requires every bank to report certain facts to the auditor-general for purposes of taxation (act 15th July, 1897, sec. 1, P. L., 292).

(For reports of private bankers, see act 7th June, 1907, sec. 1, P. L., 559).

EXAMINATIONS.

These are covered by an amendment to the act of 1895, passed in 1901, clearly the last statute on the subject; it provides that the commissioner must examine or cause to be examined, as often as he deems proper, the affairs of every corporation subject to his supervision (act 29th May, 1901, sec. 1, P. L., 345). The papers, funds, etc., of banks are at all times subject to the inspection of their directors, and the minutes, etc., are subject to the inspection of any committee of the legislature (act 16th April, 1850, sec. 10, Art. 15, P. L., 477, and act 13th May, 1876, sec. 19, P. L., 161). [The act of 1850 provided that in insolvency the court should appoint auditors to make a strict investigation of the affairs of the bank to verify the

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report made by directors (act 16th April, 1850, sec. 43, P. L., 477).] Under the act of 1876 an examination must be made immediately upon the commission of an act of insolvency (act 8th May, 1907, P. L. 189).

IV.—Reserve Requirements.

Banks, savings banks, and trust companies which receive deposits are subject to the following rules for reserves: (1) Every corporation receiving money subject to be paid out on demand must have a reserve equal to at least 15 per cent of demand liabilities. The whole fund may, and at least one-third of it must, consist of lawful money of the United States, gold certificates, silver certificates, national-bank notes, or clearing-house certificates representing specie or lawful money deposited for the purpose. One-third or less may consist of United States bonds, Pennsylvania bonds, bonds of Pennsylvania municipalities, and bonds which are a legal investment for savings banks. The rest of the reserve fund above the cash and bonds above stated may consist of moneys on deposit subject to call in any Pennsylvania bank or trust company approved by the commissioner, or in any bank or trust company located in a city which is under United States statute a reserve city and approved by the commissioner. (2) Every bank, savings bank, or trust company receiving deposits payable at a future time must keep a reserve equal to $7\frac{1}{2}$ per cent of time deposits. The fund may consist in part of cash and clearing-house certificates as described above, and in part of the bonds described above; or it may consist of money on deposit subject to call in the banks and trust companies specified above. Not more than one-third of this reserve fund may consist of bonds, however. (3) If the reserve falls below the amount required, the corporation must not increase its liabilities or purchase anything except sight exchange;

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it must not declare dividends. The commissioner notifies a bank whose reserve funds are below the requirement (act 8th May, 1907, P. L., 189).

V.—Discount and Loan Restrictions.

The latest provisions on this topic are those enacted in 1901: No director of "any banking institution, trust company, or savings institution having capital stock" may receive as a loan any amount greater than 10 per cent of the paid-in capital and surplus, and the gross amount loaned to officers and directors and to firms in which they are interested must not exceed at any time 25 per cent of the paid-in capital and surplus (act 14th June, 1901, sec. 1, P. L., 561, and act 13th May, 1876, sec. 21, P. L., 161). None of the above-named corporations may take as security for a loan or discount a lien on any part of its capital stock; the same surety must be required of shareholders as of those not shareholders (act 14th June, 1901, sec. 2, P. L., 561). "Banks chartered under the provisions of the laws of the Commonwealth" are authorized to lend on the security of bonds and mortgages on unincumbered real estate in Pennsylvania not in excess of their time deposits and to invest their funds, not exceeding 25 per cent of capital, surplus, and undivided profits, in the purchase of such mortgages (act 10th July, 1901, sec. 1, P. L., 639).

Previous to this legislation the topic of loans was dealt with in the act of 1876 in the following provisions: All associations incorporated under the act have power to hold as collateral real or personal estate, including securities of the United States, individuals, or corporations; interest may be paid on deposits only of correspondents outside Pennsylvania (act 13th May, 1876, sec. 7, P. L., 161). No directors of any corporation under the act of 1876 may receive as a loan an amount greater than 10

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per cent of the paid-in capital, and the gross amount loaned to all officers and directors, or firms in which they are interested, must not exceed 25 per cent of the paid-in capital (act 13th May, 1876, sec. 21, P. L., 161). No corporation under that act is allowed to take as security a lien on any part of its capital; the same security is required of shareholders as of those not shareholders (act 13th May, 1876, sec. 23, P. L., 161).

[Earlier legislation included the following provisions: Certain banking companies were in an act of 1824 required to loan one-fifth of their capital to the farmers, mechanics, and manufacturers of the district in which each bank was established, if proper applicants were found, and they were required whenever the legislature applied to lend not exceeding 5 per cent of their paid-in capital to the State (act 25th March, 1824, sec. 8, 8 Sm. L., 236). The banks of the Commonwealth under an act of 1829 were authorized to negotiate loans to or to purchase the stock of this Commonwealth not in excess of one-third of the capital stock of the corporation. It was provided that nothing in the act should authorize "such purchases of any individual or corporation, except such as shall be taken in satisfaction of debts previously contracted" (act 23d April, 1829, sec. 1, P. L., 3601). Some years later banks were authorized "to offer for and subscribe to the whole or part of any loan or loans to this Commonwealth" (act 14th April, 1835, sec. 1, P. L., 439). The statute of 1850 forbade any director of a bank to appear as drawer or indorser for an amount greater than 3 per cent of the paid-in capital stock; the gross amount discounted for or loaned to all directors and officers and to the firms in which they were interested was not allowed to exceed 6 per cent of paid-in capital. Actual business paper bona fide drawn by directors in the course of their private business and later presented by the holders for

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discount are not within this prohibition, however (act 16th April, 1850, secs. 23 and 51, P. L., 477). A later statute provided that no director of a bank should borrow of the bank a greater amount at any one time than 5 per cent of the paid-in capital; the gross amount loaned to all directors and officers and to firms in which they were interested was forbidden to exceed 6 per cent on the paid-in capital stock (act 17th April, 1861, sec. 1, P. L., 341).

There has been the following legislation on liabilities allowed banks: By the act of 1850 the total liabilities of any bank, exclusive of capital, were forbidden to exceed three times the paid-in capital; the debts of any kind were forbidden to amount to more than four times the capital stock paid in (act 16th April, 1850, sec. 17, P. L., 477). A similar later statute forbids the total liabilities of any bank, exclusive of its capital, to exceed three times the amount of the paid-in capital, except that when the deposits exceed one-fourth of the capital the excess may not be counted as a liability for this prohibition; debts due and to become due to a bank are forbidden ever to amount to more than four times the paid-in capital, loans to the State excepted (act 22d April, 1854, sec. 1, P. L., 467).]

VI.—Investments.

The latest legislation on this topic was in 1901. The section of the act of 1876 providing for holdings of real estate was then amended to make it lawful for any association incorporated under the act of 1876 to hold such real estate as is necessary for its accommodation in business; such as is mortgaged to it; such as it purchases at sales under judgments, decrees, or mortgages held by the corporation or purchases to secure debts due it. Except for that required for its business, no bank is allowed to hold

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real estate longer than five years (act 19th April, 1901, sec. 1, P. L., 79). Another act of the same year allows the improvement of real estate held by a bank, erection of any buildings, etc., of which portions may be rented. This statute forbids a bank to reduce its surplus for this purpose below 50 per cent of what its amount was when the improvements were begun (act 21st May, 1901, sec. 1, P. L., 288). No bank, trust company, or savings institution having capital stock may hold its own capital unless the purchase is necessary to prevent loss on a previous debt contracted on surety thought adequate at the time, or unless stock is forfeited for nonpayment of installments. Stock so purchased must not be held for longer than six months if it can be sold for what it cost the corporation (act 14th June, 1901, sec. 2, P. L., 561). Banks may invest their funds not exceeding 25 per cent of their capital, surplus, and undivided profits in the purchase of mortgages on unincumbered Pennsylvania real estate, and they may purchase for investment any interest-bearing bonds or other obligations of any corporation or individual (act 10th July, 1901, sec. 1, P. L., 639).

A statute of 1861 provided that banks might "hold for more than five years property taken or received by assignment, execution, or otherwise in payment of debts to said banks" (act 17th April, 1861, sec. 2, P. L., 342).

(For provisions for investments in the act of 1850 see act 16th April, 1850, sec. 10, art. 13, P. L., 477.)

It is a constitutional provision that no corporation shall engage in any business except that authorized in its charter, nor hold real estate except what is necessary and proper for its business (constitution, art. 16, sec. 6).

[An act of 1829 authorized banks to loan to the State and buy stock of the State, but forbade banks to make "such purchases of any individual or corporation, except such as shall be taken in satisfaction of debts previously

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contracted * * * provided the amount of such loans made or stock so held shall not exceed one-third part of the actual capital stock of such bank or corporation (act 23d April, 1829, sec. 1, P. L., 360).]

VIII.—Branches.

[The act of 1850 provided that every bank was forbidden to maintain in any way a branch or agency without the express authority of an act of legislature (act 16th April, 1850, sec. 50, P. L., 477).] The act of 1876 provides that "the usual business * * * be transacted at an office or banking house in the place specified" (act 13th May, 1876, sec. 6, P. L., 161).

X.—Unauthorized Banking.

There is an old statute providing that no company incorporated by the laws of any other State than Pennsylvania may establish in Pennsylvania "any banking house or office of discount and deposit," under penalty of a $2,000 forfeit on every person concerned (act 28th March, 1808, sec. 1, 4 Sm. L., 537).

A 1909 statute, restricting the use of "trust" to corporations under the supervision of the banking department, allows individuals to act in a trust capacity as they could before the act. It then proceeds: "Nothing in this act shall be deemed to authorize any person, copartnership, * * * or corporation, except such as report and are under the supervision of the commissioner of banking * * * to solicit or receive deposits" (act 22d April, 1909, No. 75).

XI.—Penalties.

Every director, officer, agent, etc., of a bank or trust company who makes a false statement, entry, etc., or exhibits false papers to deceive an examiner or makes a

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false report is guilty of a misdemeanor punishable by fine not to exceed $1,000, imprisonment not to exceed two years, or both (act 8th May, 1907, P. L., 180). (See for previous legislation act 1st May, 1861, sec. 36, P. L., 342.) Any officer, clerk, employee, etc., of a bank, savings bank, or trust company, who embezzles, or who puts forth a certificate of deposit, draws an order or bill of exchange, etc., or makes a false entry in a book or report, with intent to defraud or to deceive an officer of the institution or a bank examiner, and any person aiding in the commission of one of these offenses, is guilty of a misdemeanor, punishable by fine of $500 to $5,000, or imprisonment for from six months to five years, or both (act 23d April, 1909, No. 119). The act which requires reports by banks, savings banks, and trust companies to include with especial completeness all liabilities, provides for a penalty in case of violation of fine not over $1,000, imprisonment not over one year, or both (act 12th June, 1907, P. L., 525). If the commissioner or a subordinate discloses information had in the course of department business, except as authorized by the statute, he is guilty of a misdemeanor punishable by a $1,000 fine and dismissal from his employment (act 11th February, 1895, sec. 16, P. L., 4). Banks, savings banks, and trust companies which fail to report are subject, at the discretion of the commissioner, to a penalty of $20 a day (act 11th February, 1895, sec. 5, P. L., 4).

Any person who circulates a false report derogatory to the financial condition of a bank, trust company, or other financial institution, or who aids another in so doing, is guilty of a misdemeanor, punishable by fine of not more than $5,000 and imprisonment for not more than five years (act 23d April, 1909, No. 121).

Several statutes on receipt of deposits during insolvency culminate in one which declares any officer of a bank, savings bank, or trust company who receives money from a

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depositor with knowledge that the bank is insolvent guilty of embezzlement punishable by a fine of double the amount received and imprisoned from one to three years (act 9th May, 1889, sec. 1, P. L., 145).

(For the enumeration of certain misdemeanors by officers of corporations, among which banks are mentioned—mutilation of books, false statements, etc.—and for the punishment of these misdemeanors, see act 12th June, 1878, secs. 3, 4, and 5, P. L., 196.)

[Under the old legislation forbidding directors to hold office for more than three years out of four, the director who violated the statute was fined from $500 to $2,000 and was thereafter ineligible to be a director of any Pennsylvania bank (act 18th April, 1843, sec. 8, R. L., 309). The president, director, or officer of any bank who violated the provisions of the act of 1850 when no particular punishment was provided was guilty of a misdemeanor punishable by fine not to exceed $1,000 and imprisonment not to exceed three years (act 16th April, 1850, sec. 16, P. L., 477).]

Corporations of all sorts which fail to publish dividends unclaimed for three years, and deposit-receiving corporations which fail to publish deposits unclaimed for three years, and the cashiers and treasurers of those corporations, are liable to the person in whose name the unclaimed sum stands, or that person's representative, for the money and 12 per cent interest (act 6th March, 1847, sec. 3, P. L., 222).

[Under the act of 1850 illegal branches forfeited the charter of the bank establishing them and entailed as an additional penalty the payment of quadruple taxes (act 16th April, 1850, sec. 50, P. L., 477).]

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SAVINGS BANKS.

I.—Terms of Incorporation.

The constitutional provision that no corporation "to possess banking and discounting privileges" may be organized without three months' public notice applies, no doubt, to savings banks (constitution, art. 16, sec. 11).

Savings banks formerly existed in Pennsylvania both with and without capital stock (act 17th April, 1872, secs. 1 and 4, P. L., 62).

Under an act passed in 1883, no savings bank with a capital stock might decrease its capital to less than $50,000 (act 22d June, 1883, sec. 2, P. L., 155). Savings banks with a capital stock might decrease the par value of shares to $50 (act 14th June, 1879, sec. 1, P. L., 94).

The most recent statute on these questions, however, contemplates savings institutions conducted for the benefit not of stockholders, but of depositors. Two-thirds of the incorporators must reside in the county where the corporation is to be located (act 20th May, 1889, sec. 1, P. L., 246). The auditor-general (see act 11th February, 1895, sec. 10, P. L., 4, which puts all the auditor's duties on the commissioner of banking), before allowing the incorporation, ascertains whether greater convenience of access to savings banks will be afforded to a considerable number of depositors by opening the proposed bank, whether the density of population in the neighborhood promises adequate support, and whether the incorporators are responsible and fitted (act 20th May, 1889, sec. 3, P. L., 246). Dividends, not to exceed 5 per cent a year on the deposits, are regulated so that the depositors receive the net profits of the corporation after the trustees have deducted such amount as they think necessary as a surplus fund for the security of depositors, which, up to the amount of 15 per

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cent a year of deposits, the trustees may accumulate against loss. Dividends may be regulated by classes arranged according to the dealings of the different depositors with the savings bank. When the surplus amounts to 15 per cent of deposits, then, once in three years the accumulation beyond that point must be divided as an extra dividend (act 20th May, 1889, sec. 22, P. L., 246). The provision of an earlier law, that savings banks without capital stock must divide at the end of every year accumulations over a surplus equal to 15 per cent of liabilities, seems overridden (act 17th April, 1872, sec. 1, P. L., 62).

II.—Liabilities and Duties of Stockholders and Trustees.

Stockholders in "banking companies, saving fund institutions, * * * and all other incorporated companies doing the business of banks or loaning or discounting moneys as such in this Commonwealth" are individually liable for debts and deposits to double the amount of the capital stock held by each (act 11th May, 1874, sec. 1, P. L., 135).

Every savings bank trustee must be a resident of Pennsylvania (act 20th May, 1889, sec. 28, P. L., 246). There must be not fewer than thirteen trustees; in case of insolvency of a savings bank, occasioned by the fraudulent conduct of the trustees, those trustees who caused the insolvency are liable to depositors and creditors individually, each for his proportional share of the loss (act 20th May, 1889, sec. 11, P. L., 246). No trustee may have any interest in the profits of the savings bank, nor take pay for his services except when his duties require regular attendance at the savings bank, in which case a majority vote of the trustees, exclusive of the trustee interested, fixes the compensation (act 20th May, 1889, secs. 12 and

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27, P. L., 246). A trustee of a savings bank forfeits his office by becoming the trustee or employee of another savings bank, or by borrowing the funds of his bank, or by failing to attend meetings or to perform duties for six months (act 20th May, 1889, sec. 13, P. L., 246). If trustees declare interest or dividends in excess of those earned by the savings bank, those trustees who vote for such declaration are individually liable to the corporation for the excess declared (act 20th May, 1889, sec. 22, P. L., 246). The trustees must examine at least annually, with a special view to comparing depositors' ledger with general ledger (act 20th May, 1889, sec. 25, P. L., 246).

III.—Supervision.

The act passed in 1895, digested under Banks, III, covers savings banks. The banking department, with the commissioner at its head, is in charge of the laws relating to savings banks. Section 6, providing that reductions of capital, if not made good after sixty days' warning from the commissioner, are ground for proceedings for a dissolution, applies, according to its language, to "every corporation subject to the supervision of the banking department;" but the provision applicable to mutual savings banks seems to be the following: Whenever it appears to the commissioner from a report "of any corporation not having any capital stock and doing business exclusively for the benefit of depositors," or from the examination of a corporation of that sort, that it has violated the law or is conducting its business unsafely, the commissioner orders a discontinuance of the unauthorized practice, and if the corporation fails to comply, or whenever it appears to the commissioner that it is unsafe for the corporation to continue business, or that a trustee has been guilty of misconduct, the commissioner communicates the facts to the attorney-general, who proceeds as the case may require,

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possibly for the removal of trustees, for the transfer of corporate power to other persons, etc. The court applied to may decree a dissolution (act 11th February, 1895, sec. 7, P. L., 4). The section given under Banks, authorizing the commissioner to institute through the attorney-general the same sort of proceedings, in case a corporation refuses to submit to examination, applies to "any corporation" (act 11th February, 1895, sec. 8, P. L., 4). If the commissioner, after an examination, concludes that a corporation is in an unsound condition, or that it is conducting its business contrary to the interest of the public, he advises the attorney-general, who sues for a receiver; pending the appointment the commissioner may appoint a temporary receiver. This section applies to "any corporation with or without capital" (act 11th February, 1895, sec. 9, P. L., 4). Savings banks are within the terms of the statute providing for the same proceedings as those just given in case reserves fall below the required amount and are not made good after thirty days' notice from the commissioner (act 8th May, 1907, P. L., 189).

Whatever duties are by other acts incumbent upon the auditor-general, the act of 1895 transfers to the commissioner (act 11th February, 1895, sec. 10, P. L., 4). If the auditor-general or one of his examiners finds that the trustees of a savings bank are violating the spirit of the provisions allowing savings banks to deposit temporarily pending investment, they report to the attorney-general, who proceeds against the corporation (act 20th May, 1889, sec. 18, P. L., 246). The auditor-general may withhold authority to begin business if he does not think that the location, fitness of incorporators, etc., warrant granting it (act 20th May, 1889, sec. 3, P. L., 246).

If savings banks are within the term "banking institutions," they may be depositories of state moneys, in which case, certain duties with regard to their selection

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devolve upon the commissioner (act 17th February, 1906, P. L., 45).

REPORTS.

Every corporation subject to the supervision of the banking department makes to the commissioner not fewer than two reports a year in the form prescribed by him, stating resources and liabilities on a past day specified by him; the report is transmitted within five days after receipt of his request and an abstract is published in a local newspaper. He may call for special reports. He makes an annual report to the governor as stated under Banks (act 11th February, secs. 5 and 12, P. L., 4). A late statute requires savings banks to report very completely in respect to liabilities, both to depositors, etc., and for money borrowed (act 12th June, 1907, P. L., 525).

It was provided in the savings-bank act of 1889 that each savings bank should report annually to the auditor-general in a form prescribed by him, stating the following: The amount loaned on bonds and mortgages, with a list, and the location of the mortgaged premises not previously reported, and a statement of previously reported mortgages that have been paid, foreclosed, etc.; the cost and value of stock investments; amount loaned on pledge of securities; amount invested in real estate; cash on hand and on deposit, with names of depositaries and amount deposited in each; and such other information with respect to assets as the auditor-general requires; also liabilities, amounts due depositors, including dividends, and other claims which are a charge upon assets; amount deposited during the year and amount withdrawn; interest or profits received or earned; dividends credited to depositors; number of accounts opened or reopened, number closed, and number of accounts open at the end of the year (act 20th May, 1889, sec. 23, P. L., 246). Savings banks having capital stock

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must report for purpose of taxation (act 15th July, 1897, sec. 1, P. L., 292).

Early legislation given under Banks provided that banks and savings institutions authorized to declare dividends among stockholders should publish for four weeks in each year in a local newspaper a statement of unclaimed dividends over $5, with names, residences, etc., of the persons in whose favor the dividends were declared, and that "each of the said banks, savings institutions," etc., and "each and every saving-fund society," etc., authorized to receive deposits should annually publish a statement of names and residences of depositors who had not dealt with their deposits for three years and who were due at least $10, dates of deposits, amounts, etc. (act 6th March, 1847, secs. 1, 2, and 3, P. L., 222). There are provisions for reporting to the auditor-general, and later paying into the state treasury, deposits unclaimed for thirty years (act 17th April, 1872, secs. 2 and 3, P. L., 62). Decreases in capital must be published (act 22d June, 1883, sec. 2, P. L., 155).

EXAMINATIONS.

Every corporation subject to the supervision of the banking department must be examined by the commissioner or a subordinate as often as he thinks proper (act 29th May, 1901, sec. 1, P. L. 345). Besides the provision for examinations in the recent banking act just given, there were the following provisions in the savings bank statute: The auditor-general and a local court, once in two years must each appoint an examiner to investigate savings institutions, upon whose examination certain proceedings might be based not unlike those provided in the statute of 1895, but the savings-bank statute on this point seems clearly overridden by the act of 1895 (act 20th May, 1889, sec. 24, P. L., 246). The savings-bank act also required the trustees to make a thorough examination at least once

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a year of the affairs of the savings bank to make sure that the balances in the depositors' ledger are accurate, etc. (act 20th May, 1889, sec. 25, P. L., 246).

IV.—Reserve Requirements.

See this heading under Banks.

V.—Discount, Loan, and Deposit Restrictions.

See first paragraph under this heading in Banks; the provisions limiting directors' loans, and prohibiting loans on the bank's own capital, apply to savings banks with capital; the provision authorizing mortgage loans and limiting their amount, applies, if savings banks are within the quoted language.

The following provisions are part of the savings-bank act: No trustee or officer of a savings bank may directly or indirectly borrow its funds or deposits, nor be surety, nor in any manner an obligor for moneys borrowed of his savings bank (act 20th May, 1889, sec. 12, P. L., 246). No savings bank may loan deposits on notes, bills of exchange, or drafts, or discount notes, bills of exchange, or drafts (act 20th May, 1889, sec. 19, P. L., 246). The aggregate deposits to the credit of one individual or corporation at any one time must not exceed $5,000, exclusive of accrued interest (act 20th May, 1889, sec. 15, P. L., 246).

[If savings banks are within the language, "any bank in this Commonwealth," they are subject to the limitations on incurring liabilities given under Banks, V.]

VI.—Investments.

If savings banks are within the language "any bank or banking company of this Commonwealth," they may improve the real estate held for the accommodation of their business by erecting new buildings, etc., and may

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rent premises, but must not reduce for this purpose the surplus below 50 per cent of its amount when the improvements were begun (act 21st May, 1901, sec. 1, P. L., 288). No savings bank having a capital stock may hold any of its capital, unless the purchase is necessary to prevent loss of a previous debt contracted on surety thought adequate at the time, or in case of forfeiture of the stock for nonpayment of installments; and stock so purchased must not be held for longer than six months if it can be sold for what it cost the corporation (act 14th June, 1901, sec. 2, P. L., 561). "Banks chartered under the provisions of the laws of the Commonwealth of Pennsylvania" may loan on the security of bonds and mortgages on unencumbered real estate in Pennsylvania not in excess of their time deposits and may invest their funds not exceeding 25 per cent of their capital, surplus, and undivided profits, in the purchase of such mortgages. They may purchase any interest-bearing individual or corporate obligation (act 10th July, 1901, sec. 1, P. L., 639).

A statute of 1889, providing for the extension of charters of financial corporations, enacted that savings banks without capital, renewing charters after 1889, would do so on condition they have no powers of a bank of discount, and may loan deposits only on first mortgage of Pennsylvania land, on securities of the United States, Pennsylvania or Pennsylvania municipalities, or on "any other good and valid securities" (act 10th May, 1889, sec. 1, P. L., 185).

Special provisions of the savings-bank statute are the following: Savings banks may hold real estate only as follows: Such as is necessary for the immediate accommodation of the bank in its business; such as has been mortgaged to it to secure previous debts; such as it purchases at judicial sale under lien held by the bank, or

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purchases to secure debts due it (act 20th May, 1889, sec. 8, P. L., 246). No savings bank may deal in real estate or any commodities except as authorized by the act, and except such personalty as is necessary for the transaction of its business (act 20th May, 1889, sec. 21, P. L., 246). Deposits may be invested only as follows: (1) In United States securities; (2) in Pennsylvania securities; (3) in securities of any State which has not within ten years defaulted in payment of principal or interest of a debt; (4) in securities of municipalities in any State; (5) in any bonds and mortgages on unincumbered improved real estate in Pennsylvania. Pending an opportunity to invest, a savings bank may temporarily deposit in banks or trust companies (act 20th May, 1889, secs. 17 and 18, P. L., 246).

X.—Unauthorized Banking.

See this heading under Banks.

XI.—Penalties.

If savings banks are within the expression "any bank," then their officers, directors, agents, etc., who commit the offenses named first under Banks, XI (false statements, etc.), are subject to the penalty there given (act 8th May, 1907, P. L., 180). Savings banks are clearly within the provisions of the act which punishes failure to set out liabilities to depositors, for borrowed money, etc., in full in reports, by a fine on the offending officer of $1,000, imprisonment for one year, or both (act 12th June, 1907, P. L., 525). The punishment for receiving deposits during insolvency is as given under Banks, XI. For certain officers' offenses made misdemeanors in the case of savings banks in common with other corporations see act 12th June, 1878, secs. 3, 4, and 5, P. L., 196.

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The penalty for failing to report under the savings-bank act was forfeiture of $100 per day (act 20th May, 1889, sec. 23, P. L., 246); but see the later act creating a banking department, which provides that if any corporation subject to the supervision of the banking department fails to make a report it is subject, at the discretion of the commissioner, to a penalty of $20 per day (act 11th February, 1895, sec. 5, P. L., 4). See Banks, XI, for penalty for disclosure of department information by an official (act 11th February, 1895, sec. 16, P. L., 4), for penalty for not publishing unclaimed dividends and deposits (act 6th March, 1847, sec. 3, P. L., 222), for penalty for embezzlement and other frauds by officers, clerks, employees, etc. (act 23d April, 1909, No. 119), and for penalty for circulating a false report derogatory to the financial condition of any "financial institution" (act 23d April, 1909, No. 121).

TRUST COMPANIES.

I.—Terms of Incorporation.

See Banks, I, for the constitutional provision requiring notice of the organization of a corporation with banking privileges.

If trust companies do a banking business, it must be under an act authorizing them "to receive deposits of moneys and other personal property, and issue their obligations therefor" (act 29th May, 1895, sec. 1, P. L., 127). The capital stock of a trust company must not be increased to exceed $2,000,000 (act 11th January, 1885, sec. 2, P. L., 111). It must not be decreased to less than $50,000 (act 22d June, 1883, sec. 2, P. L., 155). Shares may be of as small a par value as $50 (act 14th June, 1879, sec. 1, P. L., 94).

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II.—Liabilities and Duties of Stockholders and Directors.

(See Banks, II.) The provision for double liability includes "trust companies, and all other incorporated companies doing the business of banks or loaning and discounting moneys as such" (act 11th May, 1874, sec. 1, P. L., 135).

III.—Supervision.

See Banks for explanation of supervisory officials and for proceedings against insolvent corporations, etc. (act 11th February, 1895, secs. 1, 2, 6, 8, 9, and 16, P. L., 4; and act 8th May, 1907, P. L., 189). For trust companies, as state depositaries, see act 17th February, 1906, P. L., 45. There seems no reason to suppose that the provisions of the acts of 1876 and of 1850, with regard to supervision, given under Banks, apply to trust companies. With regard to REPORTS the provisions from the act of the 11th of February, 1895, given under Banks, apply, as well as those of act 12th June, 1907, P. L., 525, requiring liabilities to be reported with particular completeness. Trust companies seem also within the provisions of the statute of the 6th of March, 1847, given under Banks, requiring unclaimed dividends of over $5 and unclaimed deposits of over $10 to be reported annually. Reductions in capital must be published (act 22d June, 1883, sec. 2, P. L., 155). The provisions of the acts of 1850 and 1876, given under Reports under Banks, III, may probably be ignored in the case of trust companies. EXAMINATIONS are held as often as the commissioner thinks proper (act 29th May, 1901, sec. 1, P. L., 345).

IV.—Reserve Requirements.

(See Banks, IV.)

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V.—Discount and Loan Restrictions.

Trust companies are within the provisions of two of the sections passed in 1901. No director may receive a loan greater than 10 per cent of the paid-in capital and surplus, and the gross amount loaned to all directors and officers and to firms in which they are interested must not exceed 25 per cent of paid-in capital and surplus. No trust company may take as security a lien on its own capital; the same surety must be required of shareholders as of persons not shareholders (act 14th June, 1901, secs. 1 and 2, P. L., 561).

Trust companies may loan money "on real and personal securities" (act 29th May, 1895, sec. 1, P. L., 127).

VI.—Investments.

No trust company may hold its own capital unless the purchase is necessary to prevent loss on a debt previously contracted on surety deemed adequate at the time, or in case of forfeiture of the stock for nonpayment of installments; stock so purchased must not be held for longer than six months if it can be sold for what it cost (act 14th June, 1901, sec. 2, P. L., 561). Trust companies may "invest their funds in * * * real and personal securities" (act 29th May, 1895, sec. 1, P. L., 127).

X.—Unauthorized Trust Company Business.

No person, firm, or corporation, except corporations under the supervision of the banking department of Pennsylvania, or some other State, may advertise or use "trust" as part of its name. Violation of these rules entails a penalty of not more than $500 for each offense (act 22d April, 1909, No. 75).

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XI.—Penalties.

See Banks, XI, for penalties for false statements, false entries, etc., and for not reporting liabilities with especial completeness (acts 141 and 331 of 1907); for penalty for disclosure of information by a department official and for failure of a trust company to report (act 11th February, 1895, secs. 16 and 5, P. L., 4); for penalty for embezzlement and other frauds by officers, clerks, employees, etc. (act 23d April, 1909, No. 119); and for penalty for circulating false reports derogatory to a trust company's financial condition (act 23d April, 1909, No. 121). The act of the 12th of June, 1878, alluded to under Banks, includes trust companies; and the penalties for receiving deposits in an insolvent trust company (act 9th May, 1899, sec. 1, P. L., 145), and for failing to publish unclaimed dividends and deposits (act 6th March, 1847, sec. 3, P. L., 222), are as given under Banks.

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RHODE ISLAND.

In the General Laws of 1896, chapter 178 treated of "banks and institutions for savings" and chapter 179 of "returns of banks and institutions for savings." These two chapters, together with whatever few amendments had been made to them, and the other Rhode Island legislation on banks and trust companies were repealed by an act passed in 1908, chapter 1590. This act, at the present writing, covers the whole banking system of Rhode Island; references in the digest are to sections in it. Mr. William P. Goodwin, bank commissioner of the State, assured the compiler, in a letter dated April 23, 1909, that the 1909 session of the legislature had passed no laws affecting the matters covered by the digest.

BANKS.

I.—Terms of Incorporation.

It is clear that commercial banks are allowed to receive "savings or participation deposits" (50, 55, 68, etc.).

Shares of stock may be issued only when paid for in cash, and the whole capital must be issued before business is begun (10).

II.—Liabilities and Duties of Stockholders and Directors.

There is no provision for double liability of stockholders, the provision to that effect in section 9 of chapter 178

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of the General Laws having been repealed by 1908, chapter 1590.

Every director of a bank or trust company must own shares to the amount of $500 par (70).

III.—Supervision.

The incorporation of banks, savings banks, and trust companies is overseen by a board of bank incorporation, consisting of the bank commissioner, the general treasurer, and the attorney-general (4). The commissioner is appointed for terms of three years and receives a salary of $4,000 (29). Neither he nor his deputy may be interested in a national bank in Rhode Island or a banking institution organized under Rhode Island law, nor in any business that requires his supervision. He must not be indebted to a banking institution organized under Rhode Island law nor be interested in an investment, brokerage, or loan business (30). Information obtained by the commissioner or a subordinate in the course of duty must be kept secret (32). The commissioner must approve of such depositaries of bank and trust company reserves as are located outside of Rhode Island (54).

The board of bank incorporation passes upon the public convenience and advantage likely to accrue from the establishment of a bank, savings bank, or trust company. If they refuse, after public hearing, to allow incorporation because the public good does not warrant it, the proposed incorporators may do nothing for a year, at the end of which time they may again apply (7, 9, 15, and 17). The board of bank incorporation passes upon increases or decreases in bank or trust company capital (11). Their consent is necessary to the establishment of branches of banks and trust companies, considering whether public convenience and advantage will be promoted (12).

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When a bank, savings bank, or trust company, or the officers or employees of one, violate the law, the bank commissioner reports to the attorney-general, who institutes appropriate proceedings (33). If upon examination a bank, savings bank, or trust company appears insolvent or in a condition such as to render continuance of its business hazardous, then the commissioner, with the consent of one other member of the board of bank incorporation, takes possession of the corporation and its assets and may apply for a receiver. If a bank, savings bank, or trust company appears to have exceeded its powers or violated the law, the commissioner may apply to court for an injunction to restrain further business (35). The board of bank incorporation has power over voluntary liquidations of banks, savings banks, and trust companies (39). When the reserve of a bank or trust company falls below the required amount, the bank commissioner notifies the corporation, and if it fails for thirty days to make it good, the commissioner, with the consent of one other member of the board, may apply for a receiver (52). The board of bank incorporation passes upon proposed changes in the by-laws of any bank, savings bank, or trust company (69).

REPORTS.

Every bank and trust company, when required by the commissioner, and at least five times a year, reports to the commissioner, showing the condition of the corporation at the close of business on a past day specified by the commissioner. The report is sent him within ten days after his request. It includes the following items: Capital stock; amount of all money and property in the possession or charge of the corporation as deposits; amount of deposits payable on demand or within ten days; amount of savings or participation deposits and the amount set aside for the protection of savings or participation depositors; number

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of depositors; investments in loans of the United States or any of the United States, or counties, cities, or towns; investments in bank stocks, railroad stocks, and railroad bonds, and all other stocks and bonds, stating amounts and values; loans on notes of corporations, firms, and individuals; loans on notes secured by collateral; loans on mortgages of real estate; cash on hand; cash on deposit with other banks; amount and date of dividends since last return; and such other information as the commissioner may require. The commissioner furnishes a blank form. The corporation publishes the report in a local newspaper. If a bank or trust company has a savings or participation department, it makes reports for that part of its business only as savings banks are required to report (50). Every bank and trust company annually reports to the bank commissioner the total amount of savings deposits on the last business day in June, on which report a tax is based (80). Banks and trust companies which have savings departments make the same report of dormant deposits which savings banks make (75).

The bank commissioner annually reports to the legislature the condition of all institutions examined by him, with whatever recommendations he cares to make (38).

For reports required to be made for purposes of taxation, see General Laws of 1896, chapter 46, section 5.

EXAMINATIONS.

A preliminary examination of the affairs of every bank and trust company is made to determine if the whole capital stock has been paid in in cash and the preliminary requirements complied with (10). The commissioner personally or by a subordinate, at least twice a year, and oftener if he thinks it expedient, examines every bank, savings bank, and trust company. If the corporation is connected with a national bank, the national and state

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examinations are made simultaneously, if possible. The examination aims to inspect thoroughly the affairs of the corporation with reference to its ability to fulfill its obligations and its compliance with law (32). On application to the commissioner by depositors of a bank, savings bank, or trust company, representing 5 per cent of deposits, or upon application of persons holding 25 per cent of outstanding capital stock, the commissioner, if the reasons presented seem adequate to him, makes an extra examination (34). At least twice a year, and oftener if he thinks it expedient, the commissioner examines the affairs of every receiver in charge of a banking institution (37).

IV.—Reserve Requirements.

Every bank and trust company must maintain a reserve of 15 per cent of all deposits. Not less than two-fifths of this reserve must consist of gold and silver coin, demand obligations of the United States, or national-bank notes, and be held by the bank or trust company in its own vaults; the remainder may consist of balances subject to demand draft, with reserve agents approved by the commissioner. When the reserve of a bank or trust company falls below the 15 per cent it must make no loans except by purchasing sight exchange, and declare no dividends till the reserve is made good. The requirement for a reserve does not apply to the savings deposits held by a bank or trust company that have been set apart for the exclusive protection of savings depositors; against such savings deposits all banks and trust companies must maintain a reserve fund such as is required of savings banks (52). Reserve agents include banks, national banks, and trust companies in Providence which are members of the clearing-house association there, and banks or trust companies in certain specified cities if approved by the bank commissioner. Reserve depositaries must main-

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tain a 25 per cent reserve of all their deposits, to be kept in the manner provided in the national banking act. Any bank, national bank, or trust company, however, doing business in Providence and a member of the clearing-house association there, may be a reserve agent for banks and trust companies doing business in towns (as opposed to cities) if it maintains a reserve such as is required in the act for banks and trust companies (54).

V.—Discount, Loan, and Deposit Restrictions.

No bank or trust company may make any loan to an amount in excess of 20 per cent of its capital, surplus, and undivided profits, the repayment of which is undertaken severally, but not jointly, by two or more persons, firms, or corporations (59). No bank or trust company may make any loan on which the bank or trust company itself is liable, however indirectly (60).

The total liabilities to any bank or trust company of any person, firm, or corporation for money borrowed, including in firm liabilities those of the members, must never exceed one-tenth of the paid in capital of the bank or trust company and one-tenth of its unimpaired surplus. The total of such liabilities must never exceed 30 per cent of the capital of the bank or trust company. Discount of bills of exchange, however, and generally of commercial paper, is not considered as money borrowed (61).

No bank or trust company may make any loan to its officers, directors, or employees until the directors or the executive or finance committee of the board have approved of the loan. Banks must not permit their officers, directors, or employees to become liable by overdrawn account (62).

No bank or trust company is allowed to loan on the security of its own stock, unless necessary to prevent loss on a previous debt. Stock so acquired must be disposed

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of within a year (64). The savings departments of banks and trust companies are subject to the provisions for savings bank loans (57 and 68).

It is provided among the powers of banks that they may carry on the business of banking "by receiving deposits and paying interest thereon: *Provided, however*, That * * * the total amount of such deposits on hand shall never exceed ten times the combined amount of its surplus and capital stock paid in" (44).

VI.—Investments.

No bank or trust company may purchase its own stock unless the purchase is necessary to prevent loss on a previous debt, except that it may take its own stock in enforcing collection of debts, in which case the stock must be sold within a year (64). Among the investments which must be taken to be legitimate for banks and trust companies, since they appear in the report required, are bank stocks, railroad stocks, railroad bonds, and other stocks and bonds (50).

Banks and trust companies that maintain a savings or participation department must invest all deposits received in that department according to the rules for investment of deposits in savings banks. These deposits and investments are set apart for the exclusive protection of depositors in the savings or participation department (55).

VII.—Overdrafts.

Every bank is forbidden to allow its officers, directors, etc., to become liable to it "by reason of overdrawn account" (62).

It is provided that one who draws a check, draft, or order on a bank, savings bank, or trust company, knowing that he has no funds or credit to meet it, is subject to

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certain penalties. Credit is defined to mean an arrangement or understanding with the bank, savings bank, or trust company for the payment of the check (77). This seems clearly to imply that overdrafts by others than officers, directors, etc., are permitted, if arranged for.

VIII.—Branches.

Subject to the requirement of the consent of the board of bank incorporation, publication of notice, etc., any bank or trust company may establish branches. If the board of bank incorporation withhold their consent on the ground that public convenience will not be promoted, the application may not be renewed until after a year (12).

X.—Unauthorized Banking.

No corporation, domestic or foreign, and no individual, firm, or corporation, except banks, savings banks, and trust companies incorporated under Rhode Island laws, may make use of a sign indicating that the office is that of a bank, savings bank, or trust company. No individual, firm, or corporation may use words on letter paper, etc., indicating that the business is that of a bank, savings bank, or trust company. No business shall be conducted which deceives the public into the belief that it is a banking, savings banking, or trust company business (27). Violation of this provision entails a forfeit to the State of $100 a day during the continuance of the violation (28).

XI.—Penalties.

If the commissioner or one of his subordinates discloses information otherwise than in the course of duty, he loses his office, and in the case of the subordinate is fined not more than $1,000 (32). Refusal to submit to examination, or obstruction of the commissioner or a subordinate

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in the course of duty, is punishable by a fine of not more than $1,000 or imprisonment for not more than one year. The person who refuses to furnish information may be jailed by a court until he consents (33). Officers, directors, or employees of any bank or trust company who allow illegal loans to be made to officers are punished by a fine of not more than $1,000, imprisonment for not more than five years, or both (62). Failure to report unclaimed savings deposits entails the same penalty in the case of savings departments of banks and trust companies as it does in savings banks—fine of $100 against the treasurer of the corporation for each offense (75). Officers, directors, and employees of banks, savings banks, and trust companies who commit various frauds, including false statements in books or reports, are fined not more than $20,000 or imprisoned not longer than twenty years (76). Drawing checks, orders, etc., on a bank, savings bank, or trust company, with knowledge that not sufficient funds are on deposit to pay it, is an offense punishable by fine of from $500 to $5,000 or imprisonment of from six months to five years, or both (77). False statements to a bank, savings bank, or trust company, made to induce a loan, and the circulation of false rumors affecting the solvency of any bank, savings bank, or trust company are offenses punishable by imprisonment of not more than a year, fine of not more than $500, or both (78).

SAVINGS BANKS.

I.—Terms of Incorporation.

The statutes evidently contemplate corporations without capital stock (14). All the incorporators must be citizens of Rhode Island (13). New members, citizens of Rhode Island, may be elected, and for failure to attend

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two consecutive annual meetings membership may be declared forfeited (20).

Every savings bank must reserve as a guaranty fund from the net profits of the preceding year not less than one-eighth nor more than one-fourth of 1 per cent of the whole deposits until this fund amounts to 5 per cent of all deposits (53).

II.—Liabilities and Duties of Trustees.

There must be at least nine trustees. No person may hold office in two savings banks at the same time. Trustees may receive a fee of not more than $3 for attendance at meetings (21). The trustees meet at least once every three months, receiving a treasurer's report at each meeting. At least once every three months they cause a statement to be prepared, showing the condition of the corporation. Failure to attend regular meetings and to perform the duties of a trustee for six consecutive months warrants the board of trustees to declare a trustee's office vacant (23). There is a board of investment discussed under VI, *infra* (21).

III.—Supervision.

Savings banks are in charge of the officials who supervise banks. The board of bank incorporation decides whether public convenience will be promoted by the establishment of a savings bank and may refuse to allow incorporation (15). The duties of the bank commissioner in case a savings bank violates the law or in case upon examination it appears insolvent or in a condition rendering a continuance of its business hazardous are as they were stated under Banks (33 and 35). The control by the board of voluntary liquidations and changes in by-laws is the same as under Banks (39 and 69). The board passes upon the establishment of branches (18).

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REPORTS.

Results of elections of officers are published in a local newspaper with a list of the trustees. These items are included in the annual report of the savings bank to the commissioner (22). Once in every three months the trustees cause a statement to be prepared, showing the condition of the corporation, in the form of a balance sheet. This is posted in the savings bank. The trustees must publish semiannually in a local newspaper the names of the president, treasurer, board of investment, and other officers charged with the duty of investing the savings bank's funds (23). The regular report to the bank commissioner is in the case of savings banks made at least twice each year and oftener if the commissioner requires. The reports state the condition of the savings bank at the close of business on a past day specified by the commissioner; they must be transmitted to him within ten days after receipt of his request. The report must be in the form prescribed by the commissioner and must include the following items: Name of corporation and names of officers; place where located; amount of deposits; amount of each item of other liabilities, public securities, including all United States, state, county, city, town, and district bonds, stating each particular kind, with values, loans on public securities, stating amount of collateral on each loan, stock in banks and trust companies, stating number of shares and values, loans on stock in banks and trust companies, stating amount of collateral on each loan; railroad bonds and street-railway bonds, stating values; loans on railroad and street-railway bonds and stocks, stating amount of collateral on each loan, estimated value of real estate and amount invested therein; loans on mortgages of real estate, loans to counties, cities, towns, or districts; loans on personal security; cash on deposit in

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banks and trust companies, with the names and the amount deposited in each; cash on hand; the whole amount of interest or profits received and the dividend rate and amounts for the previous year; the amount of reserved profits at time of last dividend; the times for the dividends fixed by the by-laws; the average rate of interest received on loans; the number of outstanding loans which are of an amount not exceeding three thousand dollars each and the aggregate amount of them; the number of open accounts; the number and amount of deposits received; the number and amount of withdrawals; the number of accounts opened and the number of accounts closed; the expenses of the corporation since its last return, and such other information as the commissioner may require (51). The treasurer of every savings bank, in July of every fifth year, returns to the commissioner a statement of the names, last known residences, and, if known, a statement of the death of depositors who have not made a deposit, or withdrawn any part of a deposit, or presented a bank book for twenty years or more. These statements are published in local newspapers once a week for six weeks. The reports need not include deposits made by a person known to the officers of the savings bank to be living and of sound mind. The bank commissioner must incorporate these returns in his report (75). A tax on deposits is based on report made by each savings bank to the bank commissioner each year, showing total deposits and reserved profits on the last business day in June (79).

The bank commissioner's annual report to the legislature includes the condition of savings banks he has examined (38).

EXAMINATIONS.

The trustees appoint an auditing committee of at least two trustees, of which committee neither the treasurer

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nor more than one member of the board of investment may be members; this auditing committee at least once a year causes a thorough audit of investments and books to be made and reported to the trustees (25). The regular examinations by the commissioner or a subordinate are made, at least two each year, to ascertain the condition of the savings bank, its ability to fulfill its obligations, and its compliance with law (32). Upon application by depositors representing 5 per cent of deposits, or upon application of at least one-third of the trustees, special examinations must be made (34). If a savings bank is in the hands of a receiver, its affairs are nevertheless examined twice a year (37).

V.—Discount and Loan Restrictions.

No member of the board of investment, nor any officer charged with the duty of investing funds, may borrow from a savings bank, or be obligor in any way for money borrowed; and if he becomes an owner of real estate on which the savings bank holds a mortgage, his office becomes vacant unless he has disposed of the land or caused the mortgage to be discharged within six months (63). Depositors in savings banks may borrow on pledge of pass book and deposit (68). See also VI, for incidental loan restrictions there stated.

VI.—Investments.

Savings bank investments are in charge of a board of investment of not less than three members, all trustees. Not more than one of the persons holding the offices of president, treasurer, and clerk may be a member of the board unless it consists of five or more members, in which case two of those officers may belong (21). The board meets at least monthly to examine all loans, changes in

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the property or security pledged or the interest charged, and purchases and sales of securities (24).

Savings bank deposits may be invested only as follows:

First.—(*a*) In United States bonds, or bonds of any State or Territory of the United States which has not for ten years repudiated its debt, or failed to pay the debt or the interest on it. (*b*) In bonds or notes of municipalities of any New England State or New York State, whose net indebtedness does not exceed 5 per cent of their tax valuation; or bonds or notes of any incorporated district in those States containing more than 5,000 inhabitants, whose securities are an obligation on the taxable property of the district, and whose net indebtedness does not exceed 3 per cent of the valuation; or bonds or notes of any incorporated district in Rhode Island which has 2,500 inhabitants and a net indebtedness of not more than 5 per cent of its valuation for taxes. (*c*) In bonds or notes of any city of the United States outside of New England and New York which has more than 30,000 inhabitants and whose net indebtedness does not exceed 5 per cent of its valuation for taxes. (*d*) In notes of an individual, firm, or corporation with a pledge of the above securities, the market value of them being at least 20 per cent more than the loan.

Second.—(*a*) In bonds of any steam railroad incorporated in Rhode Island, Massachusetts, or Connecticut, and located wholly or in part in those States, if it owns not less than 100 miles of road, and has for three years earned, after paying expenses, interest, and guaranteed dividends, not less than twice the annual interest on its indebtedness secured by the mortgage under which the bonds are issued, or by prior liens. (*b*) In the bonds of a steam railroad which would be a legal investment under (*a*), except that the railroad owns less than 100 miles, provided that the bonds are secured by a first or refunding

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mortgage of the company's railroad, or are guaranteed by a railroad whose bonds would under (*a*) be a legal investment. (*c*) In the first-mortgage bonds of terminal companies incorporated in Rhode Island, Massachusetts, or Connecticut whose property is located in one of those States, if the company is owned or operated, or if its bonds are guaranteed, by a company whose bonds would under (*a*) be a legal investment. (*d*) In the mortgage bonds of a steam railroad company incorporated in any of the United States, if its road is "located wholly or in part therein," if it owns not less than 100 miles of road, and if it has earned for three years, after payment of expenses, interest, and guaranteed dividends, not less than twice the annual interest on all its debts that are secured by the mortgage under which the bonds are issued, or by prior liens. (*e*) In the mortgage bonds of a steam railroad incorporated in any of the United States and "located wholly or in part in the same," if the bonds are guaranteed by a railroad which operates its own road and owns not less than 100 miles of line and which has earned for three years, after paying expenses, interest, and guaranteed dividends, at least twice the interest on all its outstanding obligations. (*f*) In the equipment notes or bonds of a steam railroad having the earnings required under (*e*), secured by a first lien on the property against which they are issued, and in the notes, warrants, and obligations payable within three years from their date of any such railroad company. (*g*) In the notes of an individual, firm, or corporation with a pledge as collateral of any of the above securities, if their market value is 20 per cent more than the amount secured. (*h*) In notes of an individual, firm, or corporation with a pledge of shares of stock of a steam railroad company incorporated in any of the United States and "located wholly or in part therein," if the railroad is operating its own road and has earned

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and paid regular dividends of not less than 4 per cent on all its stock for five years, provided the shares are listed on the New York, Boston, Philadelphia, or Chicago stock exchange; the market value of the collaterals in these loans must be at least 20 per cent over the amount secured, and each note must be payable within a year from its date.

Third.—(*a*) In the mortgage bonds of any electric railroad, street railway, gas, electric light, or power company, organized under the laws of Rhode Island, if the company in question has for three years, after payment of expenses, interest, and guaranteed dividends, earned not less than twice the interest on all its indebtedness secured by the mortgage under which the bonds are issued, or by any prior lien, provided the company has not during the same period defaulted on any debt secured by mortgage, or on any bonds guaranteed by it; to be a legal investment, these bonds must mature at least five years before the company's franchise expires. (*b*) In the mortgage bonds of any electric railroad, street railway, light or power company, organized under the laws of any other State, which has for three years, after paying expenses, interest, and guaranteed dividends, earned not less than twice the annual interest on its indebtedness secured by the mortgage under which the bonds are issued or by any prior lien, if the company has not during the same period defaulted on any debt secured by mortgage or on any bonds guaranteed by it; but if the bonds in this provision are to be a legal investment, the street railway issuing them must have had for three years average gross earnings of not less than $400,000 a year, and a street railway company that does a light or power business besides must have had for three years average gross earnings of not less than $600,000, and a light or power company must have had for three years average gross earnings of not less than

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$200,000. (*c*) In the bonds of any corporation owning more than 90 per cent of the stock and bonds of a street railway company incorporated in Rhode Island, if the railway is located in Rhode Island, secured by the deposit in trust of the stock and bonds of the railway company as collateral; provided the corporation has paid for five years dividends of not less than 4 per cent on all stock. The bonds of the street railway company are also a legal investment if they are secured by mortgage and guaranteed by the holding company. (*d*) In notes of an individual, firm, or corporation with a pledge of the above securities, if their market value is at least 20 per cent in excess of the loan.

Fourth.—(*a*) In the stock of national banks located in any New England State or the State of New York, or in the stock of a New England or New York state bank or trust company, but the savings bank must not hold both by purchase and security more than 25 per cent of its deposits in the stock of these banks and trust companies, nor in any one bank or trust company more than 3 per cent of its deposits, nor more than one-fourth of the capital stock of any such bank or trust company. A savings bank may deposit not more than 5 per cent of its deposits in any one bank or trust company of the sort named, but this deposit must not exceed 25 per cent of the capital and surplus of the depositary. (*b*) In notes of individuals, firms, or corporations with a pledge of the above securities, or stock of any national bank, or stock of any bank or trust company incorporated under the laws of the State in which it is located, if the bank or trust company is located in and a member of the clearing house of any United States city of more than 200,000 inhabitants; the market value of these securities must be at least 25 per cent in excess of the loan.

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Fifth.—In loans to a depositor on his personal note to an amount not exceeding 90 per cent of the deposit, the deposit and book being held as collateral.

Sixth.—In first mortgages on real estate not to exceed 60 per cent of the valuation of the real estate, but not more than 70 per cent of the whole amount of deposits may be thus invested, and not more than 30 per cent of the amount authorized to be thus invested may be in mortgages on real estate outside of Rhode Island. If the real estate is unimproved and unproductive the loan must not exceed 40 per cent of its value. At least two trustees must report on proposed loans on mortgage.

Seventh.—If the above modes of investment are not feasible, then not more than one-third of deposits may be invested in personal securities payable not beyond a year, with at least one responsible surety, or secured by collateral whose market value is 20 per cent in excess of the loan; two trustees must approve. The total liabilities, however, of any individual, firm, or corporation for money borrowed on personal security, including in partnership liabilities those of the members, must not exceed 2 per cent of the deposits and income.

Eighth.—In notes of a water, light or power, telephone, railroad, or street railway company incorporated or doing business in Rhode Island, which has paid at least 4 per cent dividends on all stock for five years, provided the notes mature not beyond three years from the date of investment, and provided they mature at least five years before the expiration of the company's franchise.

Ninth.—Savings banks may hold real estate acquired by mortgage foreclosure, by purchase at foreclosure or judicial sale on claims owned by the purchasing bank, or in settlement to secure debts due. Such real estate must be sold within five years.

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Tenth.—Savings banks may hold any securities acquired in settlements effected to secure debts, but such securities must be sold within five years.

Eleventh.—Savings banks may purchase suitable land and building for the convenient transaction of their business (57).

VIII.—Branches.

Any savings bank may establish branches in Rhode Island upon obtaining consent of the board of bank incorporation, who consider whether public convenience will be promoted (18).

X.—Unauthorized Banking.

No corporation, domestic or foreign, and no person, firm, or association, except banks, savings banks, and trust companies incorporated under the laws of Rhode Island, may use any sign having on it words indicating that the office is that of a bank, savings bank, or trust company. Letter heads and other papers must not be used by anyone unauthorized which indicate banking, savings banking, or trust company business. No unauthorized business may be transacted, deposits received, or such other transactions done as would lead the public to believe that the business is that of a bank, savings bank, or trust company (27). Injunctions issue against violations of the above, and there is a forfeiture of $100 a day (28).

XI.—Penalties.

If the clerk of a savings bank neglects to publish proper lists of names of officers, or publishes false lists, he is guilty of a misdemeanor, entailing a fine of not more than $50 (22). The treasurer of any savings bank who fails to make or publish the report of unclaimed deposits is

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subject to a fine of $100 (75). Obstructing examinations, making false entries in books, etc., the issuance of checks for which there are no funds, and the making of fraudulent statements, etc., are subject to the same penalties as were stated under Banks (33, 76, 77, and 78).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies are allowed to receive commercial deposits (46) and are allowed to receive savings and participation deposits (47, 55, etc.). All the capital must be paid in in cash, as in the case of banks (10).

II.—Liabilities and Duties of Stockholders and Directors.

(See this heading under Banks.)

III.—Supervision.

The general provisions for authority of the board of bank incorporation and the commissioner over trust companies are precisely as they are in Banks. The terms of the statutes are in almost all the provisions that apply to banks, "banks and trust companies." The only special requirement in the case of trust companies is that which demands that every trust company deposit with the state treasurer securities of certain sorts to an amount equal in value to 20 per cent of the capital stock. This fund is to secure its fiduciary obligations (48).

Reports and examinations are as they are in the case of banks.

IV.—Reserve Requirements.

(See this heading under Banks.)

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V.—Discount, Loan and Deposit Restrictions.

These are as stated under Banks; also including the provision that the total amount of deposits of money on hand by any trust company may never exceed ten times the surplus and capital paid in (46). The provision against allowing directors, officers, and employees to become indebted by overdraft, although framed to apply only to banks (62), is ruled by the local authorities to be applicable to trust companies as well, such being the manifest intention of the legislature.

VI.—Investments.

These are as they are stated under Banks, including the provision that the investment of deposits made in the savings and participation department of any trust company must be invested according to the rules for savings-bank investments.

VII.—Overdrafts.

See VII under Banks. Note that the provision forbidding overdrafts by officers, etc., applicable in its terms only to banks, is read by the Rhode Island officials to include trust companies (62), and the provision in 77, which seems to imply that overdrafts may be arranged for by others dealing with the corporation, is framed to apply to trust companies as well as banks.

(See these heads under Banks: VIII.—Branches; X.—Unauthorized trust company business; and XI.—Penalties.)

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SOUTH CAROLINA.

The statutes of this State, so far as they deal especially with banking, are included in a chapter of the Civil Code, numbered XLIII, and entitled "Of banks and banking." The statute is meager, and does not discriminate between banks and savings banks, nor provide in terms for trust companies. The references in parenthesis are, where they are simply numbers, to sections in the Civil Code, promulgated 1902; amending laws are designated by the year of the statutes at large in which they occur. The statutes have been examined through those of the 1909 session.

I.—Terms of Incorporation.

To act as guardian, trustee, etc., a "bank, corporation, or trust company" must have a bona fide capital of at least $25,000 actually paid in (1903, No. 37). This is the only provision in the statutes in which trust companies are specifically referred to.

"Every bank or banking institution" must annually set aside not less than one-tenth of net earnings until this surplus equals 20 per cent of capital stock (1774 a, added by 1909, chap. 50).

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders of insolvent banking institutions are individually liable to creditors other than depositors only to the extent of the amount remaining due to the corporation upon their stock, provided, however, that stockholders are liable to depositors in a sum equal to the

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amount of their stock above its face value (1775, as amended by 1905, No. 416; and see constitution, Art. IX, sec. 18).

No stockholder in a corporation organized for banking purposes is eligible for director, manager, or trustee unless he is owner of at least ten shares of the corporation's stock (1896). If an officer of a banking institution receives deposits or creates debts after he knows the corporation is insolvent he makes himself liable, to the person damaged, to the amount involved (1762).

III.—Supervision.

The state official in charge of banking is the bank examiner. He must be an expert accountant and practically experienced in banking business. His salary is $3,000 a year and his expenses are paid. His term of office is four years (1906, No. 64). He is charged with the duty of enforcing certain provisions of the statutes respecting investments, and the provisions requiring a surplus to be maintained (1774 a, added by 1909, chap. 50).

Reports.

All institutions lending money and receiving deposits must publish in a local newspaper at least four times a year, at such times as the bank examiner, without previous notice, prescribes, a report of the condition of business, containing a statement of capital stock paid in, deposits, discounts, property, and liabilities (1766; 1904, No. 215; 1906, No. 64). The statements must be sent in within ten days from the receipt of his request, and must be in the form he prescribes (1909, chap. 59).

After examinations the examiner makes a detailed report to the state treasurer, setting out violations of the banking laws of the State and such a full summary of the affairs of the banks as shall be necessary to protect stock-

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holders, depositors, and creditors. The treasurer in turn reports to the legislature (1906, No. 64).

EXAMINATIONS.

The bank examiner examines every banking institution in the State at least once a year. On petition of stockholders representing one-fourth of the capital stock the bank examiner must make a special examination. The results of his examinations are transmitted to the legislature by the state treasurer (1906, No. 64; 1907, No. 235).

Banks having funds of the State on deposit make quarterly reports showing the balance to the credit of the State (1903, No. 13).

V.—DISCOUNT AND LOAN RESTRICTIONS.

Incorporated banks are authorized by the statute "to make loans on negotiable paper for any period not exceeding twelve months, and also to open an account and give credit to" banks of other States (1757).

The total liabilities of anyone not an officer, or of any corporation, for money borrowed, including in corporate or partnership liabilities, the liabilities of the members, shall never exceed one-tenth of the capital and surplus of the bank. This limit may be exceeded, however, if two-thirds of the directors of the bank so vote, and the discount of commercial paper is not considered as lending money (1776).

Officers of a bank may borrow only on good security approved by two-thirds of the directors, and officers may not be surety for other officers. Moreover, the total liabilities to a bank of a director, or a firm or corporation of which he is a member, must not exceed one-tenth of the bank's capital (1777).

VI.—INVESTMENTS.

Banking corporations may hold such realty and personalty as is conveyed to them to secure debts, or as is

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sold upon execution to satisfy debts to them, or is necessary to transact business. Not more than one-half the capital stock and one-half the deposits may be invested in mortgages of real estate. Banking corporations may deal in public and other securities and stocks of other corporations (1774 and 1893).

Banks "shall have power to vest from time to time such part of their capital not exceeding (with the amount of stock any such bank may hold) one-half of the amount originally subscribed to such bank in the stock of this State or of the United States" (1758).

XI.—Penalties.

Directors who receive deposits in failing banks are guilty of a felony for which the punishment is imprisonment for not less than one year and fine for not less than $1,000 (1762). Directors who violate the provisions of 1776 and 1777 against certain loans are punishable by fine, imprisonment or both (Criminal Code, 218).

Failure to publish the quarterly reports in local newspapers may entail forfeiture of charter. Such failure is also a misdemeanor entailing a fine of not less than $100 nor more than $1,000, or imprisonment for not less than three months nor more than one year, or both (1766; 1904, No. 215). Failure to transmit the quarterly statement to the examiner within ten days from his call causes a forfeit of $10 a day (1909, chap. 59). Interference with the examiner is a misdemeanor entailing imprisonment for not more than one year or a fine of not more than $1,000, or both (L., 1906, No. 64).

Drawing a check or draft without the funds on deposit with which to meet it is, if the drawer obtains funds by his fraud, a misdemeanor, punishable by fine, not exceeding $100, or imprisonment, not exceeding thirty days (1909, chap. 5).

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SOUTH DAKOTA.

The most recent revision of the codes of South Dakota is that of 1903; later legislation is in the session laws of 1903, 1905, 1907, and 1909. The banking legislation found in the codes includes an article in the Political Code (secs. 107–118) dealing with the bank examiner; an article in the Civil Code (secs. 847–877) dealing with organization and government of state banks; and a few sections in the Penal Code. The most recent act, chapter 223 of 1909, and even the previous act, chapter 79 of 1903, which the 1909 statute has superseded, have been so apparently designed to furnish a complete law that the article in the Civil Code has not been embodied in the digest, for if any of its provisions are still law it is in each case a matter of statutory construction too nice to be dealt with here. The sections of the Political Code dealing with the public examiner have likewise been omitted, for those which are not concerned with his duties with respect to other matters than banks seem covered by provisions in chapter 223 of 1909. There is a trust-company law, chapter 74 of the laws of 1905. There is no separate legislation for savings banks, but it is provided in the 1909 statute among the powers of state banks that they may receive "commercial and savings deposits" (1909, chap. 223, II, 4). It is possible, though unlikely, that trust companies may be made subject in certain respects to chapter 223 of 1909, the language of which makes

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its provisions applicable often to "banks" but sometimes to "any corporation transacting business under this act" or, "any corporation transacting a banking business in this state." The 1909 statute in one or two places actually mentions trust companies; it enacts that the banking department has charge of the execution of the laws relating to banks and trust companies (1909, chap. 223, I, 1), and makes it the duty of the public examiner to ascertain at least twice each year the condition "of each bank and trust company doing business in this state" (1909, chap. 223, I, 4).

The references are usually by year, chapter and section, but since chapter 223 of 1909 is divided into two articles, each containing sections which begin at 1, the references to that statute contain also a Roman numeral, I or II, indicating the article in the chapter.

BANKS.

I.—Terms of Incorporation.

All the incorporators of a state bank must be residents of South Dakota. The capital, all paid in in money, must be not less than $10,000 in towns containing 1,500 inhabitants or less; not less than $15,000 in towns of 1,500 to 2,500; not less than $25,000 in towns of 2,500 to 5,000; and not less than $50,000 in towns of over 5,000. (Shares must be of $100 each—1909, chap. 223, II, 2.) Banks organized before the 1909 statute became effective were required in case their capital was less than $10,000 to increase it to that amount in accordance with the requirements just given whenever their deposits averaged ten times capital and surplus for a period of six months. No

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bank may receive deposits in excess of fifteen times its capital and surplus (1909, chap. 223, II, 1).

The public examiner examines the condition of each bank to ascertain whether or not the capital has been fully paid in, etc., before he grants permission to begin business. He refuses his certificate if he has reason to believe that the corporation is formed for other than the legitimate business contemplated by the statute of 1909; the certificate may be withheld in case a new bank does not seem necessary in the town in question (1909, chap. 223, II, 7).

Dividends may be declared semiannually or annually (1909, chap. 223, II, 11). They may not be declared except out of net profits. Before any dividend is declared not less than one-tenth of net profits for the period covered by the dividend must be carried to surplus until surplus amounts to 20 per cent of capital. If surplus becomes depleted no dividends may be declared until it is fully restored (1909, chap. 223, II, 36 and 37).

No bank may prefer any depositor or creditor by pledging the assets of the bank as collateral; but a bank may borrow for temporary purposes and may pledge its assets, not exceeding 50 per cent in excess of the amount borrowed, as collateral. No bank may borrow habitually for the purpose of reloaning. A bank may rediscount and indorse its negotiable paper to an amount equal to one-half of its capital. No bank may issue its certificate of deposit for the purpose of borrowing money nor make partial payments on certificates of deposit (1909, chap. 223, II, 33).

Banks may combine commercial and savings banking (1909, chap. 223, II, 4).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of every bank are individually liable, for the benefit of creditors, to the amount of their stock at

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par in addition to the amount invested in the stock. The liability continues for a year after transfer as to the affairs of the bank at and prior to the transfer (1909, chap. 223, II, 41, and see constitution, art. 18, sec. 3). Every stockholder who receives a dividend declared out of other funds than net profits, or so as to impair capital, is liable to restore the full amount unless the capital is subsequently made good (1909, chap. 223, II, 37). There is a provision that when capital is impaired below the legal requirement the directors have power to make a pro rata assessment on the stock to make good the deficiency (1909, chap. 223, I, 8).

There must be in each bank a board of not fewer than three directors, a majority of whom are residents of South Dakota; at least three of the directors must reside in the county, city, or town in which the bank is located; each director must own at least five shares of stock. Any director, officer, or other person who participates in a violation of the banking laws of the State is liable for all damages which the bank, its stockholders, depositors, or creditors may sustain on account of the violation (1909, chap. 223, II, 9). If the directors pay a dividend when the corporation is insolvent or in danger of insolvency, or without having reason to believe there are enough net profits to pay the dividend without impairing capital, they are liable to the creditors at the time of declaring the dividend in double its amount (1909, chap. 223, II, 37). "Every active officer" is personally liable for all loans made by his bank in excess of the legal amount and is liable for all overdrafts not authorized by the board of directors (1909, chap. 223, II, 38). If the directors violate, or allow a violation of, the provisions of the statute of 1909, they are liable for the loss sustained (1909, chap. 223, II, 40).

The directors must meet at least twice a year and at these meetings thoroughly examine the affairs of the bank,

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reporting the result of the examination to the public examiner (1909, chap. 223, II, 10 and 11).

III.—Supervision.

The state banking department has supervision over "banks, trust companies, and the banking business in this State." The department is in charge of the public examiner, who is ex officio superintendent of banks (1909, chap. 223, I, 1). The public examiner is appointed by the governor for terms of four years; both he and his deputy must each have had at least three years' practical experience in the banking business or served for the same period in the banking department of some State. The public examiner's salary is $2,000 a year. Neither public examiner nor his deputy nor any of his examiners may be stockholders or financially interested in any bank (1909, chap. 223, I, 2). All members of the banking department must keep secret information obtained in examination except so far as public duty requires the information to be disclosed (1909, chap. 223, I, 7).

The public examiner issues certificates allowing banks to begin business. These certificates may be withheld with the advice of the attorney-general if a corporation seems organized for other than the legitimate purposes of the act. If the business of the town where the bank is proposed to be organized seems not to warrant the incorporation of another bank, the public examiner with the approval of the governor and the attorney-general may withhold the certificate (1909, chap. 223, II, 7). The public examiner approves of reductions of capital stock (1909, chap. 223, II, 15), and of consolidations (1909, chap. 223, II, 24). He supervises voluntary dissolutions (1909, chap, 223, II, 25). All transfers of stock must be certified to him at once (1909, chap. 223, II, 42). Whenever it appears to an examiner that a bank is

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borrowing habitually for the purpose of reloaning he may require the borrowed money to be repaid (1909, chap. 223, II, 33). He may order any officer of a bank whom he finds to be dishonest, reckless, or incompetent to be removed by the directors of the bank (1909, chap. 223, II, 48). Under the law and with the approval of the governor and the attorney-general he may make such rules and regulations for the government of banks as seems wise and expedient (1909, chap. 223, II, 49).

The public examiner may personally or by his deputy or an examiner take charge of the affairs of any bank and wind up its business under the direction of the proper court under certain circumstances explained in the following sections (1909, chap. 223, I, 8 and 10). He may do so when he is satisfied that the capital of a bank is impaired, and within thirty days after his notice to make the impairment good the bank fails to do so (1909, chap. 223, I, 8); when satisfied that a bank has unlawfully refused to pay its depositors or has become insolvent (1909, chap. 223, I, 9); whenever any officer in charge of a bank refuses to submit to examination (1909, chap. 223, II, 20); and whenever the reserve of a bank falls below the requirement and is not made good for thirty days after he has ordered it replenished (1909, chap. 223, II, 28). He is expressly authorized to sue stockholders on their double liability (1909, chap. 223, I, 13). If the directors of a bank violate, or allow violations of, the provisions of the 1909 statute, and for thirty days after the public examiner has warned them fail to make good any loss resulting from their acts and continue their conduct, this is ground for forfeiture of charter; the public examiner institutes proceedings for dissolution (1909, chap. 223, II, 40).

If on taking charge of a bank the examiner discovers that it is only temporarily embarrassed so that in his

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opinion it may pay its liabilities without impairing its capital, or if the bank will arrange to make good its capital if impaired, then the examiner may allow such arrangements to be made as will enable the bank to resume business on a sound basis (1909, chap. 223, I, 11). A bank may voluntarily place its affairs under the control of the public examiner by posting a notice on its door (1909, chap. 223, II, 26).

If it appears to the public examiner that a bank does not keep its books in such manner as to enable him to ascertain its condition readily, he may require the books to be properly kept (1909, chap. 223, I, 14). The public examiner approves of reserve depositories (1909, chap. 223, II, 27).

For supervisory powers exercised with respect to the depositors' guaranty system, see XII, *infra*.

REPORTS.

Every bank must make to the public examiner not less than five reports each year at such times and according in such forms as he prescribes; "such reports shall exhibit in detail and under proper heads the resources and liabilities of the bank at the the close of business of any past day by the public examiner specified within five days after the receipt of the request therefor from him." Reports must be published in a local newspaper. The public examiner may call for special reports whenever he thinks them necessary (1909, chap. 223, II, 17).

A copy of the list of names and addresses of stockholders, together with the number of shares held by each, required to be kept by every bank, must annually be sent to the public examiner (1909, chap. 223, II, 13). Within ten days after every directors' meeting at which a dividend has been declared a copy of the record showing in detail the dispositions of the profits of the bank, etc.,

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must be transmitted to the public examiner (1909, chap. 223, II, 11). All transfers of the stock of a bank must be certified to the public examiner immediately (1909, chap. 223, II, 42).

At the two regular meetings of the directors required to be held each year, thorough examinations are required to be made; a report, showing, among other things, the assets which are not of the value at which they are being carried by the bank, must be made and transmitted to the public examiner within ten days (1909, chap. 223, II, 10 and 11).

Every other year the public examiner reports to the governor, stating the condition of each bank reporting to the department, giving data with respect to banks opened and closed, and showing details of department work (1909, chap. 223, I, 17).

For reports required of depositaries of public funds and for tax reports, see Political Code, sections 336 and 2081.

For reports required of banks participating in the depositors' guaranty system, see XII, *infra*.

EXAMINATIONS.

The public examiner must personally, or by his deputy or an examiner appointed for the purpose, examine at least twice each year the cash, bills, collaterals, securities, books, and general condition of each bank and trust company doing business in the State. He makes an extra examination whenever the board of directors of a particular bank request it. At the examination he ascertains whether the bank transacts its business at the place designated in its articles of incorporation, and whether it conforms to the law (1909, chap. 223, I, 4).

There is a preliminary examination before authority to begin business is granted (1909, chap. 223, II, 7). Directors hold at least two meetings annually, at which meet-

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ings they make a thorough examination of the affairs of the bank, with a view particularly to ascertaining what assets are carried at an improperly high value (1909, chap. 223, II, 10 and 11). The examiner makes a thorough examination of the affairs of every bank before it is allowed to be voluntarily dissolved (1909, chap. 223, II, 25).

IV.—Reserve Requirements.

Every bank must keep on hand at all times at least 20 per cent of its total deposits, of which reserve whatever portion the board of directors determines may be on deposit in banks approved by the public examiner as reserve banks. Reserve banks must at all times keep on hand at least 25 per cent of their total deposits in money or on deposit in reserve banks. Cash items are not considered as part of reserve. Whenever the reserve of a bank falls below the requirement, no new loans or discounts may be made, except by dealing in sight exchange (1909, chap. 223, II, 27 and 28).

V.—Discount, Loan and Deposit Restrictions.

No bank may loan to any single corporation, firm, or individual, including in loans to a firm those made to the members, more than 25 per cent of paid-up capital and surplus. In no case may the total liabilities of the stockholders of a bank to their bank "including any and all liabilities of any firm or corporation in which such stockholders may be interested," exceed 50 per cent of the paid-up capital of the bank. Discount of bills of exchange, however, drawn against existing values and discount of paper owned by the person negotiating it are not considered money borrowed (1909, chap. 223, II, 29).

A partnership or an individual transacting a banking business must not carry a note of the partnership or

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individual, or any member of the partnership, as an asset. No officer, director, or employee of a banking corporation may borrow funds of the bank on his own note or obligation without obtaining the approval of a majority of the board of directors. "No such loans" may be made without ample collateral or a responsible indorser (1909, chap. 223, II, 31).

No bank may make loans or discounts on the security of shares of its own capital unless accepting this security is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within six months "from the time of its purchase" (1909, chap. 223, II, 32).

No bank may receive deposits in excess of fifteen times its capital and surplus, computing average deposits on a six months' basis (1909, chap. 223, II, 1).

(For restrictions on borrowing, see I, *supra*.)

VI.—Investments.

A bank may hold real estate only for these purposes: First, such as is necessary for the convenient transaction of its business, including apartments which may be rented, but no bank may invest in banking office, furniture, and fixtures an amount greater than 40 per cent of capital and surplus; second, such as is conveyed to it in satisfaction of previous debts; third, such as it purchases at sale on judgments or foreclosures under securities held by it, but a bank must not bid a larger amount than is necessary to satisfy the debt and costs. Real estate acquired under second and third above must not be held for a longer time than five years, except on extension granted by the public examiner; if no extension is granted the real estate must be sold within a year after the expiration of the five. These provisions must not be construed to prevent a bank from loaning money on real estate (1909, chap. 223, II, 16).

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No bank may employ its moneys in trade or commerce by buying or selling merchandise, nor invest any of its funds in the stock of any other bank or corporation, nor purchase shares of its own stock unless such a purchase is necessary to prevent loss on a previous debt, in which case the stock so purchased must be sold within six months, at the expiration of which time it may not be considered assets. A bank may, however, hold and sell all kinds of property acquired as collateral for loans or in collection of debts, but goods and chattels so acquired must be disposed of as soon as possible and may not be considered assets after six months (1909, chap. 223, II, 32).

VII.—Overdrafts.

An overdraft of more than sixty days' standing may not be considered as an asset (1909, chap. 223, II, 33). Every active officer of a bank is personally liable for all overdrafts allowed by his bank unless they are authorized by the board of directors (1909, chap. 223, II, 38). Every officer or employee of "any bank, banking association, or savings bank" who knowingly overdraws his account with the bank and wrongfully obtains the money is guilty of a misdemeanor (Penal Code, sec. 678).

VIII.—Branches.

The only hints in the statute on this point are the provision with respect to examinations, that the public examiner is to ascertain "whether such bank transacts its business at the place designated in the articles of incorporation" (1909, chap. 223, I, 4), and the provision requiring the articles to set out "the name of the particular town and county where such bank is to be located" (1909, chap. 223, II, 2).

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X.—Unauthorized Banking.

It is unlawful for any individual, firm, or corporation to advertise itself as engaged in banking business without obtaining authority from the public examiner as provided in the 1909 statute; doing business without such authority is a misdemeanor (1909, chap. 223, II, 47). Special or limited partnerships may not be formed for banking (Civil Code, sec. 1768).

XI.—Penalties.

If the public examiner or a subordinate discloses the private affairs of a bank examined, except in the course of duty, he forfeits his office and is subject to a fine of $100 to $1,000, or imprisonment for six months to two years, or both fine and imprisonment (1909, chap. 223, I, 7). Failure to report entails, at the discretion of the public examiner, a forfeiture of $10 a day (1909, chap. 223, II, 18). Making a false statement or entry with intent to deceive an examiner, or making a false report, is a felony punishable by a fine not exceeding $5,000 or imprisonment not exceeding ten years or both (1909, chap. 223, II, 19). Refusal by the officers of the bank to exhibit the stock book to a person rightfully demanding inspection subjects each offending officer to fine of $50 (1909, chap. 223, II, 13).

Any officer, director, or employee of a bank who allows shareholders to be indebted in a sum exceeding 50 per cent of paid-up capital is guilty of a felony, punishable by a fine not to exceed $500 or imprisonment not to exceed three years, or both (1909, chap. 223, II, 30). Anyone violating the provisions of the section restricting loans by banking partnerships to members of the partnership, and by banking corporations to officers, directors, and employees of the corporation, is considered guilty of embez-

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zlement and punished by fine not exceeding $1,000, imprisonment not exceeding five years, or both (1909, chap. 223, II, 31). If any director, officer, employee, etc., of a bank receives or assents to the reception of a deposit, or creates or assents to the creation of a debt by the bank, in consideration of which debt property is received into the bank, after he has knowledge that the bank is insolvent, he is punishable by a fine not exceeding $5,000, imprisonment not exceeding five years, or both (1909, chap. 223, II, 45). It is unlawful to certify a check unless the person, firm, or corporation drawing it has the necessary money on deposit (1909, chap. 223, II, 34). A comprehensive section enacts that any director, officer, agent, etc., of a bank who embezzles, or without authority issues a certificate of deposit, draws an order or a bill of exchange, makes an acceptance, etc., or who makes a false entry with intent to defraud, or with intent to deceive any examiner or other person, and any person who aids in these offenses, is subject to imprisonment not to exceed twenty years (1909, chap. 223, II, 39).

The following provisions of the Penal Code may perhaps stand with the recent legislation: Every officer or agent of "any banking corporation" who increases the loans and discounts of the corporation beyond the legal limit is guilty of a misdemeanor (677). Every officer or employee of "any bank, banking association, or savings bank" who overdraws his account is guilty of a misdemeanor (678). If any person, firm, or corporation "engaged in banking" receives deposits when insolvent, an officer, director, or employee who knowingly receives the deposit is guilty of a felony punished by imprisonment for not more than ten years in the state prison, or for not more than one year in the county jail, or by imprisonment and fine, the fine not to exceed $10,000 (679). Every director of a "moneyed corporation" who

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participates in a fraudulent insolvency is guilty of a misdemeanor (685).

XIII.—Depositors' Guaranty System.

Every bank or corporation doing a banking business, presenting a certificate of the public examiner showing it to be solvent and honestly managed, is eligible to become a member of the "State Association of Incorporated Banks of the State of South Dakota," which is authorized to create and maintain by voluntary payment of fees a bank-deposit insurance fund, to be held for the security of depositors in member banks (1909, chap. 229, 1). This association is created under the statute as soon as not less than one hundred South Dakota state banks, aggregating at least $1,000,000 capital, send to the state treasurer statements of certain facts, including the amount of average daily deposits for the preceding three months, together with their membership fees and first year's premiums; they send the same information to the public examiner (1909, chap. 299, 2).

The banks which are members of the association pay fees as follows: A bank capitalized at $10,000 or less pays $100; a bank capitalized at $10,000 to $15,000 pays $110; $15,000 to $20,000, $120; $20,000 to $30,000, $130; $30,000 to $50,000, $140; $50,000 to $75,000, $150; $75,000 to $100,000, $160; and a bank capitalized at more than $100,000, $170 (1909, chap. 299, 3). The annual premium is one mill on each dollar of average daily deposits for three months previous to the payment of the premium, except in the case of public deposits which are otherwise protected by law; on these no premium is computed (1909, chap. 299, 4).

Both the state treasurer and the public examiner keep records of member banks, their names, the amounts of

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their capital, their average deposits, membership fees, and annual premiums; the state treasurer keeps the money received by way of membership fees and premiums in a fund called the "bank-deposit insurance fund." The public examiner provides a certificate, to be hung in each member bank, stating that its depositors are entitled for one year to the protection of the fund (1909, chap. 299, 5).

The statute provides that as soon as enough state banks have applied for membership, paid their fees and premiums, etc., so that the association has been created, thereafter any state bank and any national bank in the State may join, complying with the same preliminary requirements, paying the same membership fees and premiums, and being entered on the books of the treasurer and examiner in the same way as original members (1909, chap. 299, 6, 7, and 10).

The public examiner, state treasurer, and state auditor are commissioners to supervise the execution of the bank-deposit insurance-fund statute. When the fund has become large enough, in their judgment, to justify a reduction in premiums, the board may reduce the premium, and later increase it, though never beyond one mill on each dollar of average daily deposits; they may, however, levy special assessments of not exceeding four mills in any one year upon member banks, if such assessments are necessary to pay existing deficiencies in the fund; these special assessments to be paid within sixty days from the date of the levy (1909, chap. 299, 8).

Membership is from year to year. Before the first year's membership expires each member bank, in order to retain its membership, must comply with substantially the same formalities as those originally required, and must pay its second year's premium; failure to pay the premium before the end of the year and to furnish the information, certificates, etc., terminates membership, which can only

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be renewed by the proceedings required of new members joining (1909, chap. 299, 9).

The fund is held by the treasurer in trust for the depositors in member banks; he must deposit the fund as he deposits state moneys, adding to the fund any interest received from the depositaries. He may also invest the fund in "the anticipatory revenue warrants and registered general fund warrants of the State," adding to the fund interest received from this investment. He must deposit and invest in such a way as to allow ready conversion into cash (1909, chap. 299, 11).

When a member bank fails and its assets in the hands of its receiver are insufficient to pay depositors, the receiver certifies the names of depositors and the amounts of deposits at the time of the failure. The public examiner approves the certificate, and on the state auditor's warrant in favor of the receiver the treasurer pays the depositors out of the fund. If, at the time of the failure, the fund has not grown to an amount sufficient to pay to these depositors in full, the whole fund is paid to the receiver and distributed among the depositors pro rata; then all or so much as may be necessary of what is accumulated in the fund, subsequent to the distribution, within the year covered by the last payment of premium by the insolvent bank, is similarly paid to the receiver and distributed pro rata until the depositors are paid in full (1909, chap. 299, 12). When the depositors are paid in full, the association, for the purpose of replenishing the fund, is subrogated to their rights in the assets of the insolvent bank to the amount that was paid out of the insurance deposit fund (1909, chap. 299, 13).

No member of the association may at any time pay more than 5 per cent interest on any of its deposits (1909, chap. 299, 14).

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SAVINGS BANKS.

See introductory paragraph. The only reference to savings business in the 1909 statute is in section 4 of Article II, which empowers banks to receive "commercial and savings deposits." The prohibition upon overdrafts by officers and employees, in section 678 of the Penal Code, applies expressly to savings banks.

TRUST COMPANIES.

I.—Terms of Incorporation.

The trust company statute, chapter 74 of the laws of 1905, authorizes trust companies "to receive money on deposit to be subject to check or to be repaid in such manner and on such terms and with or without interest as may be agreed upon by the depositor and the said trust company" (1905, chap. 74, 4).

The minimum capital for trust companies is as follows: In towns or cities of 10,000 or less, $25,000; in towns or cities of from 10,000 to 25,000, $50,000; in cities or towns of over 25,000, $100,000, all of which must be paid in before business is begun (1905, chap. 74, 6). The capital must be divided into shares of $100 each (1905, chap. 74, 8).

Before any dividend is declared, 10 per cent of net profits on hand at the time must be passed to surplus fund until that amounts to 30 per cent of the capital (1905, chap. 74, 9).

Trust funds must be kept separate from the general assets of the corporation and are not liable for the obligations of the corporation (1905, chap. 74, 12).

II.—Liabilities and Duties of Stockholders and Directors.

Each shareholder is individually liable for the obligations of the corporation in an amount equal to twice the par value of the stock held (1905, chap. 74, 7).

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There must be at least five directors, a majority of whom must reside in South Dakota. Each director must own at least five shares of stock (1905, chap. 74, 5).

III.—Supervision.

The public examiner is ex officio superintendent of trust companies (1905, chap. 74, 15, and 1909, chap. 223, I, 1). When it appears to him from an examination or report that a trust company has violated the law or is conducting its business unsafely, he may order a discontinuance of the illegal and unsafe practices, and strict conformity with law and safety. If the trust company fails to report or comply with the order made, or if it appears to the examiner that it is inexpedient for the corporation to continue business, or that the interests of depositors are jeopardized by extraordinary withdrawals, or that an officer has been guilty of misconduct, or that the company has suffered a serious loss by fire, etc., he communicates the facts to the governor, with whose approval he institutes through the attorney-general what proceedings the case requires (1905, chap. 74, 17). If the examiner has evidence that a statement is false, the corporation is deemed to have forfeited its charter, in which case, and also in the case of a trust company which has violated any provisions of the act of 1905, the charter is forfeited; the attorney-general on demand of the public examiner institutes proceedings to annul the corporate existence (1905, chap. 74, 18). The examiner has certain duties in connection with voluntary dissolutions (1905, chap. 74, 21).

Reports.

Every trust company reports to the examiner not less than four times each year, according to the form prescribed by him, showing resources and liabilities at the

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close of business on a past day specified by the examiner, and a list and brief description of trusts with certain details about them. The public examiner may require whatever information he desires in these reports. They must be transmitted to him within seven days after receipt of his request. An abstract is printed in a local newspaper. The examiner may call for special reports whenever he thinks them necessary (1905, chap. 74, 15). The public examiner submits detailed reports of examinations to the governor (1905, chap. 74, 16).

EXAMINATIONS.

The public examiner or a subordinate, under the trust company statute, examined every trust company at least once a year and as much oftener as he thought it expedient. The condition and resources of the corporation were investigated; its mode of business; investments; the safety and prudence of its management; security afforded its obligees; and its compliance with law (1905, chap. 74, 16); the provision for examination of banks, giving somewhat different details (see Banks, III), must be taken to have overridden this section, however, since it requires this semiannual examination to be made of "each bank and trust company" (1909, chap. 223, I, 4). The examiner investigates the affairs of trust companies in voluntary dissolution (1905, chap. 74, 21).

IV.—Reserve Requirements.

Every trust company must have on hand at all times, in cash or on deposit in solvent banks, an amount equal to 10 per cent of its time deposits and 25 per cent of its demand deposits (1905, chap. 74, 14).

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V.—Discount and Loan Restrictions.

"No corporation organized under this act shall make loans or discounts on its own shares unless necessary to prevent loss on debts previously contracted in good faith, and stock acquired in satisfaction of such debts shall be sold at public or private sale within six months after the acquirement." The total liability of any person, firm, or corporation to a trust company must not exceed 15 per cent of capital and surplus, but this restriction does not apply to first mortgage loans on realty worth at least twice the loan (1905, chap. 74, 11). Trust companies may "loan money upon notes and bonds and upon real and personal security. Provided, that at no time shall the total amount of such loans exceed ten times the combined capital and surplus of the corporation" (1905, chap. 74, 4).

VI.—Investments.

Trust companies may deal in real estate, but the amount so invested must not exceed one-half the paid-in capital. This limitation on the amount of real estate investments does not apply to trust funds nor to realty acquired by the corporation in satisfaction of debts due. Land acquired in satisfaction of debts must not be held for more than two years (1905, chap. 74, 4).

Trust companies may deal in "stocks, bills of exchange, bonds, mortgages, notes, and other securities" (1905, chap. 74, 4). The language of the statute limiting holdings of the corporation's own stock is given above under V.

X.—Unauthorized Trust Company Business.

An amendment to the trust company act adds to it the provision that no corporation may be organized to do trust company business except under this act. It goes on: "And no company, person, or association shall hereafter

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use the word trust as part of its name." What seems to have been meant is, no company, person, or association not incorporated under the act (1907, chap. 109).

XI.—Penalties.

Persons violating provisions of chapter 74 of 1905 which provide for no particular penalty are fined not less than $50 nor more than $500 for each offense (1905, chap. 74, 19).

The provisions of the Penal Code, possibly applicable to trust companies, are given under XI in Banks, where their language is quoted in order that the reader may judge if they are applicable to trust companies doing a banking business.

XII.—Depositors' Guaranty System.

See Banks, XII, for the digest of the statute on this topic. Any corporation doing a banking business may become a member of the association of guaranteed banks (1909, chap. 299, 1).

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TENNESSEE.

In Shannon's Code of Tennessee, 1896, among the provisions on corporations, sections 2083–2089 deal with "savings banks and banks for discount," and sections 2090–2105 deal with "banks and trust companies." Later in the volume, among the regulations of trade and commerce, a chapter containing sections 3217–3273 deals with "change bills and banking." Shannon's supplement to the code, which embraces Tennessee legislation from the publication of the code through the session of 1903, contains certain amendments and additions to the sections named. The session laws have been examined through those of 1909. References in the digest, unless otherwise specified, are to sections of the Code of 1896.

It is apparently contemplated that banks should engage also in trust company business. Since there are no especial trust company provisions, that heading is omitted from the digest. A few provisions which seem applicable merely to savings banks are inserted under that heading. There are provisions which in the terms of the statute relate to "savings banks and banks for discount." The legislation on banking matters in this State is scattering and incomplete, the bulk of it having reference to the issue of notes by state banks. In practice, moreover, as the compiler is advised by Mr. Hallum W. Goodloe, secretary of state, in a letter dated March 10, 1909, there being no legislation to put into effect sections 3236 and

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3240, which provide for examinations and proceedings against delinquent corporations by the secretary of state, these two sections are inoperative. The conflict in provisions for reports is solved by a ruling of the comptroller, who calls for them every six months.

BANKS.

I.—Terms of Incorporation.

Banks are invested with authority "if the banking company or corporation so chooses" to couple with the ordinary business of banking a safe deposit and trust company business (2090 and 2100). Later legislation than the two sections cited provides that all trusts, guardianships, etc., may be accepted without bond by banks organized to conduct a banking, savings, and trust business in counties of 60,000 to 90,000, with a capital of at least $100,000 (supplement, p. 522).

Dividends may be declared every six months, only if upon thorough examination by the directors it appears that actual profits have been made (3227).

II.—Liabilities and Duties of Stockholders and Directors.

Under the Code stockholders were liable to the creditors of the bank for the amount of their stock, and apparently no more (2103 and 3242), after transfer of stock upon which payment was still due the stockholder so transferring remained liable for what was unpaid (2095). A late statute provides for the incorporation of banks whose stockholders, and their transferees, are subject to double liability; under section 3 of this statute each certificate of stock in a corporation organized under the act must show that the owner of the certificate is bound to the

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depositors "not only to the extent of his stock, but, in addition, individually to the extent of the par value of his stock," and, under section 5, the incorporators must, in signing the charter, bind themselves in the same terms. Section 1, however, provides merely that the incorporators "*may* bind themselves" to a double liability (1909, chap. 54).

In case of fraud or willful mismanagement assenting stockholders are liable for loss occasioned to the creditors (3242).

There must be not fewer than five directors (2093). They make certain examinations discussed below (3227). In case of fraud or willful mismanagement, whereby the creditors suffer loss, the participating directors are liable (3242).

III.—Supervision.

There is no official especially charged with supervision of banks. If, in the opinion of secretary of state, a bank has violated its charter powers, he reports to the governor and attorney-general, and if they concur he institutes proceedings for forfeiture of charter (3240). Willful suspension of specie payment for 120 days in one year is ground for proceedings for forfeiture of charter and receivership (3238).

REPORTS.

Banks, savings banks, and trust companies publish in a local newspaper in January and July of each year a statement showing the financial condition of the institution on June 30 and December 31. This statement must be in a form prescribed by the state comptroller (2104, and supplement, pp. 362–363). There is also a provision in the Code that banks make a monthly statement to the comptroller showing assets and liabilities, which monthly statement must be published (3228). It is not clear

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whether the provision in the supplement supersedes the requirement for monthly statements or not. Results of examinations by the secretary of state discussed below are published by the comptroller (3236). Suspended banks report weekly to the secretary of state, who publishes the reports monthly (3251).

EXAMINATIONS.

Every six months the directors of banks thoroughly examine the debts and profits with a view to ascertaining if the profits exceed doubtful debts and warrant a dividend (3227). The regular examinations are apparently required to be made at least quarterly by the secretary of state with a view to ascertaining the amount of coin, exchange, paper, and other assets of each bank, as well as its entire liabilities, with the names and residences of the stockholders, the amount owned by each, whether the stock is paid, and such other items as the public may require to have a correct knowledge of the bank's condition. The report of these examinations is published by the comptroller (3236). These examinations by the state officials are, however, no longer made; the statute has been allowed to become a dead letter. Committees of the legislature may examine banks when they choose (3243).

(For report for taxes, see supplement, p. 133.)

V.—Discount and Loan Restrictions.

Banks may allow interest not exceeding 3 per cent on deposits (2097). They may do business as pawnbrokers in connection with their banking business (2098).

Banks must never increase their liabilities beyond the amount of their total solvent assets (3226), but they must discount at least one-third of their capital in notes every year (3249).

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VI.—Investments.

Banks may hold real estate necessary for the transaction of their business, and may take real estate in payment of debts due (2091). They may receive mortgages for debts previously contracted and may purchase in real estate thus mortgaged or assigned. They may purchase in land sold at execution sales under judgments in their favor, and may take land to secure bad debts. They must not hold this land longer than five years, however (3226). There are provisions for the investment of trust funds (supplement, p. 524).

No bank may engage in trade or commerce (3226) nor buy in its own stock, though it may receive its own stock in payment of bad debts, in which case the stock must be conveyed to a trustee to be sold for the bank (3235).

VIII.—Branches.

Branches are apparently allowed, for they are alluded to in section 3224.

X.—Unauthorized Banking.

It is a misdemeanor to establish a banking institution unless authorized by Tennessee or United States law, or to establish an office of discount or deposit. The penalty is a fine of $10,000.

XI.—Penalties.

Directors who withdraw capital until liabilities are satisfied, or apply assets to other purposes than those of legitimate banking, are guilty of a misdemeanor, punishable by fine of $500 and imprisonment of from two to ten

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months (3232). Officers who procure assets to exhibit fraudulently to the secretary of state on examination as the property of the bank are guilty of a misdemeanor punishable by fine of not less than $500 and imprisonment of not less than six months (3237). Publication by a bank official of a false report entails a fine of from $500 to $2,000, or imprisonment of from one to five years (supplement, p. 363). Banking institutions which fail to report are subject to a penalty of $100 (supplement, p. 363). Receipt of deposits by an officer or employee with knowledge of the bank's insolvency is punished by from two to ten years' imprisonment (6840). A recent statute, so ungrammatical as to be scarcely intelligible, deals with the drawing of checks against nonexistent deposits, and provides for a penalty of fine of $100 to $250, and imprisonment for from sixty to ninety days (1909, chap. 202).

SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks in Tennessee are corporations with capital stock. It is provided that the directors may declare dividends "to the depositors" (2086), but later sections, one providing that when a deposit amounts to $50 it may, at the depositor's option, become stock (2088), and another providing that the interest payable on deposits must not exceed the legal rate (2089), look toward stock companies.

Dividends may be declared to depositors every six months out of "the interest and profits of said corporation," after an examination by the directors (2086).

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III.—Supervision.

REPORTS.

Savings banks are included in the provisions of the act at page 362 of the supplement, requiring statements to be published in July and January in a local newspaper, showing the financial condition of the bank on June 30 and December 31.

EXAMINATIONS.

The directors appoint a committee of examination to investigate the affairs of savings banks before declaring a dividend and to publish the report in a local newspaper (2086).

V.—Discount, Loan, and Deposit Restrictions.

Deposits must be received for any sum not less than $2 (2089). Interest may be paid on them up to the legal rate (2089).

VI.—Investments.

Investments may be in discounted paper, public stocks, or other securities at the discretion of the directors, in a manner deemed most beneficial for the interest of the depositors (2085).

XI.—Penalties.

Savings banks are subject to the penalties for failure to report prescribed by the act at page 362 in the supplement. (See XI, under Banks.)

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TEXAS.

Banks, savings banks, and trust companies were thoroughly, and to a great extent separately, legislated for in Texas, in an act found at page 489 of the laws of Texas for 1905. This act was amended in certain sections by laws found at pages 60 and 305 of the laws of 1907, and by an important statute of 1909, which adds, among other provisions, a system of deposit guaranty. This 1909 statute, chapter 15 of the second called session of the thirty-first legislature, applies, in most of its provisions, to banks and trust companies, but in some sections the language includes merely "banks." The references, where they are merely numbers in parenthesis, are to sections of the act of 1905, considering the amendments as incorporated in it; the 1909 statute, except where it merely amends sections in the banking act of 1905, is cited by year, chapter, and section. In certain instances trust companies are subject to the same rules as banks; these provisions are inserted once only, under "Banks," phrased so as to show that they apply both to banks and trust companies. At the present writing there is no published legislation later than that in the 1909 session laws.

BANKS.

I.—Terms of Incorporation

Corporations formed for any of the purposes contemplated by the banking act may extend their business to any of the other purposes authorized by the act; that

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is to say, commercial banking, savings banking, and trust company business may all be combined (63). "Any state bank or banking and trust company" may maintain a savings department and use the word "savings" as part of its name and in advertising if it complies with certain requirements of notice to the commissioner of banking, etc., keeps the business of this department entirely separate from its general business, and invests 85 per cent of its saving deposits in the securities named under VI. So far as the statute of 1909 does not provide complete regulations for the savings departments of banks and trust companies, such departments are subject to the general legislation for savings banks. In case of liquidation, savings depositors have a prior lien on all the assets of the savings department (1909, chap. 15, 13).

The capital stock must be not less than $10,000 for banks in towns and cities of less than 2,500; not less than $25,000 for those in towns and cities of from 2,500 to 10,000; not less than $50,000 for those in towns and cities of from 10,000 to 20,000; and not less than $100,000 for those in towns and cities of 20,000 and over. Shares are of $100 each. The capital stock must be fully paid up in lawful money (Constitution, Art. XVI, sec. 16, amd. in 1904; 2 and 5).

The 1909 statute adds the following provision with respect to capital: If it appears from the statement of average daily deposits of "any bank" that these average daily deposits amount to more than five times the capital and surplus at the end of the year, in case capital is not more than $10,000; or that they amount to more than six times the capital and surplus if the capital is from $10,000 to $20,000; or if they amount to more than seven times, between $20,000 and $40,000; eight times, between $40,000 and $75,000; nine times, between $75,000 and $100,000; or ten times, if the capital is $100,000 or more,

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then the bank in question must within sixty days increase its capital by 25 per cent. It is the duty of the commissioner to order such increase. If it is not made, the bank may not receive deposits at any time when its total deposits amount to more than these limitations (1909, chap. 15, 27).

Dividends may be declared semiannually or quarterly by banks and trust companies, if they have been earned, if the corporation is fully solvent, and if the capital is worth in good resources the full amount paid in. If the capital becomes impaired to the extent of 25 per cent, the corporation stops doing business unless, within 60 days, the impairment is made good, or the capital reduced to the extent of the impairment (50 and 58). Before a dividend is declared, the directors of each bank and trust company must set aside 10 per cent of net profits for surplus until it amounts to 50 per cent of the capital stock (55).

See V, *infra*, for restrictions on borrowing by a bank.

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders in banks, savings banks, and trust companies are personally liable to an additional amount equal to the par value of their shares for all the liabilities of the corporation existing when it defaults upon any liability; they are liable also for debts of the corporation existing when they transfer their stock, for twelve months after the date of the transfer (Constitution, Art. XVI, sec. 16, amd. in 1904; and 59).

Banks are managed by from five to twenty-five directors, who must each own at least ten shares of the stock of the corporation, unless the capital does not exceed $10,000, in which case five shares are enough. No person may be a director of a bank which holds a judgment against him. The board must meet at least once a month to pass on

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business since the last meeting. The records at each monthly meeting must show the liability of directors and officers to the bank (6). Directors of any bank or trust company who assent to paying a dividend when the capital is impaired are liable to the creditors of the corporation if any loss occurs (50). Directors of banks and trust companies who knowingly declare dividends while the corporation is insolvent, or declare a dividend which makes the corporation insolvent, are liable for all the debts of the corporation then existing or afterward contracted while they are in office (58). Directors or employees of any banking institution who create debts with knowledge that the institution is insolvent become individually responsible for the liabilities created (67). There is a general provision that for losses which the capital stock is not sufficient to satisfy, directors are to be responsible as they now are at law or equity (59).

III.—Supervision.

The duties and title of superintendent of banks are added by the statute of 1905 to those of the commissioner of agriculture, insurance, statistics, and history. Five hundred dollars a year was added to his salary for these extra services. He must not be interested in any banking institution (38). The commissioner of insurance and banking appoints as many bank examiners as are necessary to make the examinations required by law, but the number must never exceed one for each forty banking corporations subject to examination (44). They must not be made receivers of institutions they have examined. They must keep secret the information they acquire in office; must not take extra compensation; must not be financially interested in banking institutions; and must give bond on which they are liable to anyone who suffers

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through their fraudulently reporting an insolvent bank solvent (43).

If the superintendent has reason to believe the capital of any bank, savings bank, or trust company is reduced below the prescribed amount, he requires the corporation to make good the deficiency. If, from examination, it appears to the superintendent that a bank or trust company is conducting its business unsafely, he orders the unauthorized practices discontinued. If these or other orders of his are not complied with, or if reports are not made, or if the superintendent thinks it inexpedient that any corporation should continue business, or if he sees that depositors' interests are being jeopardized, or that an officer is guilty of misconduct, or that serious loss has occurred, he institutes, through the attorney-general, appropriate proceedings. If from an examination it appears that a bank or trust company is insolvent, or that its continuance in business is seriously dangerous, then the superintendent may close the bank and take charge of its affairs. He then makes, as soon as possible, a thorough examination, and if convinced that it is insolvent he reports to the attorney-general, who institutes proceedings for a receiver. The superintendent may appoint a special agent to take charge of the affairs of a bank or trust company pending the appointment of a receiver, but this special agent must not have the bank in charge for longer than sixty days. A bank or trust company may put its affairs under the control of the superintendent voluntarily (40). If a bank or trust company operating under the bond guaranty system (see XII) defaults in the payment of a deposit lawfully demanded, the examiner at once examines, and if in his judgment the bank is insolvent, he then takes charge and the liquidation of the bank is begun (1909, chap. 15, 17). If a bank

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operating under the bond guaranty system (see XII) is required to provide additional security owing to its deposits having grown to exceed six times its capital and surplus and fails to comply with these requirements after demand by the commissioner, he reports to the attorney-general, who proceeds for the forfeiture of the charter of the corporation (1909, chap. 15, 22). If a corporation so transacting business is notified by the board that the security furnished is insufficient and fails to comply with its requirements for additional security, the board communicates with the attorney-general, who institutes such proceedings as the needs of the case require (1909, chap. 15, 24). The commissioner notifies the attorney-general to proceed to forfeit the charter of any corporation which fails to avail itself of one or the other system of deposit guaranty (1909, chap. 15, 23). The commissioner of insurance and banking closes all banks which the state banking board disapproves and determines not entitled to transact a banking business; he proceeds for the liquidation of such banks as he would against insolvent banks (1909, chap. 15, 25). A failing bank must put itself in the hands of the superintendent, and not make a general assignment (41). Refusal on the part of any corporation to submit its affairs to inspection, or any violation of law, warrants the superintendent's having the attorney-general proceed as against an insolvent bank (42). The superintendent approves of reserve depositaries (7 and 18).

The 1909 statute provides elaborately for the liquidation of an insolvent corporation's assets. Under it the commissioner winds up the corporation "either through a receiver or through some competent person;" but the language of the section makes it appear that the commissioner has possession, that the commissioner collects debts, that the commissioner pays claims, etc. (1909, chap. 15, 9).

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REPORTS.

Banks, savings banks, and trust companies whenever required by the superintendent, not less than twice a year, furnish a statement of the condition of the affairs of the corporation at the close of business on a past day (45 and 49). The superintendent must give no notice of the day on which he will call for a statement (49). The prescribed form of statement includes the following items: Resources—Loans and discounts, undoubtedly good on personal or collateral; loans, real estate; overdrafts; bonds and stocks; real estate (banking house); other real estate; furniture and fixtures; due from other banks and bankers, subject to check; cash items; currency; specie; other resources. Liabilities—Capital stock paid in; surplus fund; undivided profits, net; due to banks and bankers, subject to check; individual deposits subject to check; time certificates of deposit; demand certificates of deposit; cashier's checks; bills payable and rediscounts; other liabilities (46). The banking board may make whatever changes in the form of statements required of banking corporations they deem advisable, and may require any additional statements with respect to average daily deposits, capital stock, surplus, etc., necessary to the enforcement of the statute of 1909 (1909, chap. 15, 39). The statement is published in a local newspaper (47).

Every bank or trust company maintaining a savings department must file with the commissioner of insurance and banking "not less than 10 days after the first calendar month" a statement of the assets and liabilities of the department upon a form prescribed by the commissioner; it is unlawful to receive savings deposits when the last preceding monthly statement is not posted in the office of the bank (1909, chap. 15, 13). The quoted passage, which is,

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from the reprint of the 1909 statute furnished by the commissioner of insurance and banking, seems unintelligible; perhaps for "first calendar month" the section should read "first of each calendar month."

The results of all examinations of the previous year are embodied in a report by the superintendent to the legislature (39).

For statements required for taxation see the Texas Statutes (Sayles, 1898), section 5079 *et seq.*

EXAMINATIONS.

The commissioner of insurance and banking, at least quarterly, causes every banking corporation to be thoroughly examined; he may cause such corporations to be examined whenever it seems necessary or expedient (39). Certain special examinations are made by the superintendent as preliminary to receivership proceedings (40); they are discussed above.

If a bank or trust company operating under the bond security system (see XII) defaults in the payment of a deposit lawfully demanded, the commissioner of insurance and banking must at once make an examination (1909, chap. 15, 17).

IV.—Reserve Requirements.

Every banking corporation must keep in cash on hand and due from other banks an amount equal to 25 per cent of its demand deposits; 10 per cent of this reserve must be in actual cash. When the reserve falls below, no new loans or discounts shall be made. Depositaries of the reserve may be banks of Texas, or banks or trust companies chartered and operating under the laws of another State or the laws of the United States, approved by the superintendent of banks, having a paid-up capital of $50,000

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or more, but the deposits in any one bank or trust company must not exceed 20 per cent of the deposits, capital, and surplus of that bank (7).

Any bank or trust company which maintains a savings department must keep on hand in that department at all times not less than 15 per cent of savings deposits in actual cash (1909, chap. 15, 13).

V.—Discount, Loan and Deposit Restrictions.

No bank may loan more than 50 per cent of its securities on real estate, nor loan on real estate an amount greater than 50 per cent of its cash value (3).

No bank or trust company may loan to any individual or corporation a sum exceeding 25 per cent of the paid-in capital; a permanent surplus, certified to the secretary of state to have been set apart, and never diverted without notice to him, may be considered as part of capital, if it is equal to at least 50 per cent of the capital. The section does not apply, however, to balances due from correspondents subject to draft. Moreover, the discount of bills of exchange, and, under certain restrictions, the discount of commercial paper generally, are not considered as money borrowed (53).

No director of a bank may borrow in excess of 10 per cent of the capital and surplus without consent of the majority of the directors other than the borrower (6). See XI for provisions of the 1909 statute against loans by a state bank or trust company to officers and directors, and to the commissioner of insurance and banking and the subordinates in his department. The prohibition on loans to directors and officers, except under certain conditions, is in the form merely of a penalty on such transactions; loans to the commissioner, and all persons interested in or employed in his department, are absolutely prohibited (1909, chap. 15, 42, 44, and 48).

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A restriction on the amount of deposits allowed in proportion to capital appears under I, *supra* (1909, chap. 15, 27).

No state bank or trust company may make a loan secured by the stock of any other banking corporation if by the making of such loan the total stock of the other corporation held as collateral will exceed 10 per cent of the stock of the other corporation, unless taking this collateral is necessary to prevent loss on a previous debt, in which case it must not be held for a longer period than six months (1909, chap. 15, 28).

No state bank may loan or discount on the security of the shares of its own capital unless the security is necessary to prevent loss on a previous debt, in which case the stock must be sold "within six months from the time of its purchase," or in default of being sold the bank is considered to have its capital impaired to the extent of the par value of the shares (1909, chap. 15, 36).

No bank may pledge, as collateral for money borrowed, its securities to an amount more than 50 per cent greater than the amount borrowed on them, nor may any state bank issue any evidence of indebtedness secured by the pledge of any of its securities which does not contain a provision that in case the commissioner takes possession of the bank's property, before foreclosure of the pledge, a grace of thirty days will be allowed, during which the bank or the commissioner may redeem the securities pledged (1909, chap. 15, 37).

VI.—Investments.

Banks and trust companies may own only such real estate as is required in the transaction of their business, and such as they acquire in the collection of debts due them, which latter sort must be conveyed away within five years (58 and 11). Banks and trust companies may

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loan on realty or other sufficient collateral, or may invest in bonds of the United States, Texas, and Texas municipalities (58). Banks, savings banks, and trust companies are all forbidden to engage in commerce, etc., though they may sell all kinds of property which may come into their possession as security or in the ordinary collection of debts (54).

No state bank or trust company may own more than 10 per cent of the capital of any other banking corporation unless this ownership is necessary to prevent loss on a previous debt, in which case the stock may not be owned for a longer period than six months (1909, chap. 15, 28). No state bank may be a purchaser of shares of its own capital stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months, or in default of sale the bank will be considered to have impaired its capital to the extent of the par value of the shares (1909, chap. 15, 36).

Banking and trust companies maintaining a savings department must keep savings deposits and funds unmingled with other funds and "may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities and not otherwise:" (1) United States securities; (2) bonds of Texas municipalities lawfully issued, on which no default has been made either on principal or interest for five years prior to investment; (3) bonds of Texas, or of other States which have not within five years prior to the investment defaulted in principal or interest; (4) first mortgage bonds of steam or electric railroads whose income is sufficient to pay operating expenses and fixed charges and which are domiciled in Texas; (5) bonds or notes secured by lien on unincumbered real estate to run for no longer than ten years, situated in the State, worth at least twice the

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amount of the loan. Fifteen per cent of the savings deposits of the bank or trust company must be kept in actual cash in the savings department (1909, chap. 15, 13.)

VII.—Overdrafts.

The statement required from banks, savings banks, and trust companies includes among resources the item "overdrafts" (46).

VIII.—Branches.

These are forbidden by section 4 in conformity with the requirement in the 1904 amendment to section 16 of Article XVI of the constitution.

X.—Unauthorized Banking.

No foreign corporation, except national banks, may do a banking and discount business (76 and 79). No one except those authorized by the statutes may use on signs, letter heads, etc., as part of their name, such words as "bank," "trust," "savings," etc. The penalty for unauthorized banking or the use of these words is forfeiture of charter, or if a foreign corporation, then forfeiture of permit to do business in Texas. Any offending corporation or officer forfeits $100 a day for each offense (76).

Any person or persons who transact or hold themselves out as transacting the business of banking for any bank or trust company after January 1, 1910, without holding a certificate of authority from the state banking board, are guilty of a misdemeanor punishable by penalties for each offense, each day being considered a separate offense, of fine from $100 to $1,000, or imprisonment for from one to twelve months, or both fine and imprisonment (1909, 15, 25).

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XI.—Penalties.

Any examiner who fails to perform his duty is guilty of a felony, punishable by not more than five years' imprisonment (68). The superintendent who gives notice to a bank of an approaching report, or fails to perform any other duty, commits a misdemeanor, punishable by removal from office and a fine of not less than $500 (49).

Failure to report, or the making of a false report, is a misdemeanor by the bank official in question, entailing a fine of from $100 to $500, or imprisonment of from one to twelve months, or both (49).

It is unlawful for any director or officer of a bank or trust company which maintains a savings department to use or consent to the use of funds in the savings department for other purposes than for the payment of savings depositors, making the prescribed investments, and in the payment of dividends allowed by law; it is unlawful to borrow savings funds or to take any consideration on account of a loan made out of the funds of the department, or to sell any security to the department, or to do any act whereby at least 15 per cent of savings department assets shall not be in cash; any officer or director violating the above provisions is guilty of a felony punishable by imprisonment for from one to five years (1909, chap. 15, 13).

Any guaranty fund bank or bond security bank which advertises, or any person who for such a bank advertises or permits anyone else to advertise for them, a statement that the deposits of the bank are secured otherwise than by the two systems provided for in the statute of 1909 (see XII), or publishes an advertisement to the effect that the State of Texas guarantees or secures the deposits, is guilty of a misdemeanor punishable by a fine of from $100 to $500, or imprisonment for from three to twelve months, or both. Any person who advertises the statement authorized to be

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used by guaranty fund banks or by bond security banks, except as authorized in the act of 1909, is guilty of a misdemeanor punishable by fine of from $100 to $500, or imprisonment for from three to twelve months, or both (1909, chap. 15, 31).

If the president, cashier, agent, etc., of any bank or trust company embezzles, or without authority issues certificates of deposit, draws orders or bills of exchange, etc., or makes any false entry in a book, report, or statement with intent either to defraud the bank or any other corporation, individual, or firm, or to "receive" (probably misprint for "deceive") any officer of the bank or examining officer of the banking department, or if any person aids an officer, agent, etc., in violating these provisions, the offender is guilty of a felony punishable by imprisonment for from five to ten years (1909, chap. 15, 41).

Any director of a bank or trust company who borrows any funds of the bank in excess of 10 per cent of its capital and surplus without the consent of a majority of the directors, and any officer of a state bank who becomes indebted to the bank in any sum whatever without the consent of a majority of the board other than the borrower, and any officer or director who loans or assents to the loan of any of its funds to an officer, or any of its funds to a director in excess of 10 per cent of its capital and surplus without the consent being first obtained, or who permits any officer or director to become indebted without such a consent, is guilty of a felony punishable by imprisonment for not less than two years (1909, chap. 15, 42).

Any officer, director, or employee of a bank or trust company who fails to perform any duty imposed by law, or does or aids in doing anything prohibited by the statute of 1909, for the punishment of which no other provision is made, is guilty of a misdemeanor punishable by fine of

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from $500 to $1,000, imprisonment for from thirty to ninety days, or both (1909, chap. 15, 43).

If the commissioner or a subordinate is financially interested in any bank or trust company subject to the supervision of the department, or is indebted to such an institution, he is guilty of a misdemeanor punishable by fine not to exceed $500 and forfeiture of his office (1909, chap. 15, 44). Any bank or trust company which directly or indirectly loans to the commissioner of insurance or any person employed by the department of insurance and banking is liable to a penalty of from $100 to $1,000 (1909, chap. 15, 48).

Any officer, clerk, or agent of a bank or trust company who certifies to a check for which funds have not been credited to the drawer is guilty of a felony punishable by fine of from $500 to $5,000, imprisonment for not more than one year, or both fine and imprisonment (1909, chap. 15, 45).

Any examiner who intentionally fails to notify the commissioner of any violation of the provisions of the statute of 1909 within ten days after he knows of it, or any commissioner of banking who fails to notify the local district attorney of such a violation within ten days after he knows of it, is guilty of a misdemeanor punishable by a fine of from $100 to $500, imprisonment for from three to twelve months, or both, with forfeiture of office (1909, chap. 15, 46).

XII.—Depositors' Guaranty System.

Under the 1909 statute all corporations with banking and discount privileges, and all banking and trust companies, must protect their depositors in one of the two ways described in the statute as the depositors' guaranty fund and the depositors' bond security system (1909, chap. 15, 1). The act creates a state banking board com-

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posed of the attorney-general, the commissioner of insurance and banking, and the state treasurer, who have control over the guaranty fund, may adopt rules with respect to the management of the fund, and supervise the bond security system; they have power to regulate and control all state bank corporations and trust companies (1909, chap. 15, 2). Every bank and trust company must, on January 1, 1910, have secured its depositors by one or the other of the two plans, making its own election between them (1909, chap. 15, 3 and 23).

Any bank or trust company securing its deposits under the depositors' guaranty fund pays to the banking board on January 1, 1910, 1 per cent of its average deposits for the preceding year ending November 1, 1909, not including public funds if otherwise secured. Annually, after the first payment, each bank and trust company secured to the guaranty fund plan pays to the board one-fourth of 1 per cent of its average daily deposits for the year ending November 1 preceding, these contributions all to be added to the guaranty fund. When the fund reaches $2,000,000 the bank commissioner notifies all banks and trust companies subject to the act that they need pay nothing further until the fund is depleted; if it falls below $2,000,000 or below the amount of the fund on January 1 preceding, or if an emergency arises at any time, then the board has authority to require a payment for the current year of 2 per cent of average deposits or such part of 2 per cent as may be necessary to restore the fund to $2,000,000 or to its amount as on January 1 preceding, or to meet the emergency. No bank or trust company may ever be required to pay more than 2 per cent of average daily deposits in any one year (1909, chap. 15, 4). Funds are paid to the board as follows: Twenty-five per cent of each payment required is paid in cash and deposited by the board with the state treasurer to

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be held by him solely for the purposes specified in the statute; the remaining 75 per cent of each payment is made by each bank or trust company by crediting the state banking board with the amount as a demand deposit, subject to check or order of the board (1909, chap. 15, 5). Banks and trust companies newly organized pay 3 per cent of their capital and surplus into the guaranty fund, subject to adjustment, at the end of a year, on the basis of their average deposits (1909, chap. 15, 6). In computing average deposits of a bank or trust company for the purpose of determining the amount required to be paid into the depositors' guaranty fund, the deposits of its savings department are not included (1909, chap. 15, 13).

The board admits to the benefits of the act only banks and trust companies which are, in their opinion, solvent and properly conducted (1909, chap. 15, 7). National banks in Texas may avail themselves of the protection of the depositors' guaranty fund as state banks may (1909, chap. 15, 8).

When the commissioner of insurance and banking takes possession of any bank or trust company, subject to the depositors' guaranty-fund plan, the depositors must be paid in full out of the cash in the corporation which can be made available, and the remainder must be paid out of the depositors' guaranty fund, if the available cash is insufficient, except that interest-bearing deposits and deposits otherwise secured are not insured under the guaranty plan, but receive only their pro rata share in the amount realized from the assets (1909, chap. 15, 10). The State has, for the benefit of the depositors' guaranty fund, a first lien upon the assets of the bank or trust company after dissolution (1909, chap. 15, 11). If the fund is drawn upon to pay off the depositors of a national bank, then the board receives from the officer dissolving the

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national bank a share of the assets pro rated according to the amount which would be due the depositors (1909, chap. 15, 12). In case of the voluntary liquidation of a bank or trust company, if it appears to the board that all depositors have been paid in full, the board returns to the bank or trust company the pro rata part paid by it into the fund as it stands at the time (1909, chap. 15, 14).

The bond-security system is entirely distinct. Every state bank or trust company which elects to avail itself of this system must, on January 1, 1910, and annually thereafter, file with the commissioner, on behalf of the depositors of the bank, a bond, policy of insurance, or other guaranty of indemnity in an amount equal to the amount of its capital stock, which bond or policy inures to the benefit of the depositors. This instrument must be approved by a local judge. It secures depositors at the time it is filed and all deposits made during the succeeding twelve months. If the bond is a personal obligation, it is not deemed adequate until it has been executed by at least three different persons of financial responsibility and solvency; corporations operating under the guaranty-fund system provided for by the statute may not be accepted as surety on such a bond (1909, chap. 15, 15). Foreign corporations and private bankers, under certain conditions, may avail themselves of the bond-security system (1909, chap. 15, 16). National banks in Texas may do so (1909, chap. 15, 32). If it appears to the state banking board that the security filed is insufficient, they must require the security to be made sufficient (1909, chap. 15, 24).

In the event of the default of a corporation which has availed itself of the bond system in payment of a deposit lawfully demanded, the commissioner, when he is advised of the default, must examine the bank, and if, in his judgment, it is insolvent, he must proceed to liquidate it,

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notifying at once the persons obligated on the bond, policy, or guaranty of indemnity; sixty days after his notice the full amount of the instrument becomes payable. It thereupon becomes the duty of those obligated to pay the the full amount to the commissioner, or such part as he may demand, to be held by him in trust for the depositors of the insolvent institution; the commissioner must promptly distribute pro rata all sums received to unpaid depositors. If one of the persons obligated is a Texas corporation, and it refuses to pay, its charter is subject to forfeiture; in case a foreign corporation so refuses, its permit to transact business in Texas is revoked. In case any obligor continues in default for ninety days, the attorney-general must cause suit to be brought (1909, chap. 15, 17). In case any obligor is required to pay over any sum for the benefit of depositors, he thereby becomes subrogated to the rights of the depositors to the extent of the payment he has been required to make (1909, chap. 15, 18). A bank or trust company may secure its deposits by more than one bond, policy, or guaranty of indemnity, or by more than one of the three forms (1909, chap. 21). Whenever the deposits of a corporation securing its deposits under this system exceed six times its capital and surplus, it must furnish additional security consisting of one or more bonds, policies, or guaranties of indemnity, aggregating the extent of deposits beyond six times capital and surplus (1909, chap. 15, 22).

If any bank or trust company fails to file an instrument under the bond-security system, or to avail itself of the guaranty-fund plan, then the commissioner of insurance must report to the attorney-general, who institutes suit to forfeit the corporation's charter (1909, chap. 15, 23). All state banks, after January 1, 1910, must hold a certificate from the commissioner which must state whether "non-interest-bearing and unsecured deposits of this

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bank are protected by the state bank-guaranty fund," or whether "all deposits of this bank are protected by security bond under the laws of the State of Texas" (1909, chap. 15, 25). Guaranty-fund banks may advertise by a statement similar to that just quoted as appearing upon their certificate of authority to transact business; and bond-security banks may advertise by means of a statement similar to that above quoted as appearing upon their certificate of authority. They may advertise as, respectively, "guaranty-fund banks," or "guaranty-bond banks." The penalties for advertising in violation of the act are given in XI (1909, chap. 15, 31).

SAVINGS BANKS.

I.—Terms of Incorporation.

This business may be combined with commercial banking and trust company business (63).

The capital of savings banks must not be less than $10,000 in cities of 50,000 or under, and not less than $50,000 in cities of over 50,000. It must be paid up in cash (constitution, Art XVI, sec. 16, amd. in 1904; and 15). No savings bank may ever have a capital of more than $5,000,000 (27). Shares must be of $100 each (13). See Banks, I, for the section of the 1909 statute requiring, under certain circumstances, increases in the capital of "any bank" (1909, chap. 15, 27).

No dividend may ever be paid exceeding 10 per cent a year (15 and 29). The rules for dividends are as follows: When interest at the rate of not less than 3 per cent a year has been paid by savings banks out of net profits for six months, then out of the remaining net earnings for the six months a dividend may be paid, but not until at least one-tenth of the profits for that period have been carried to the credit of a guaranty fund, which must be added to in this

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manner until it equals the amount of the capital stock (29). If dividends are skipped, they are made cumulative, so that as soon as there are net profits at the end of a six months' period in excess of the 3 per cent interest and the amount required to be carried to the guaranty fund, then this excess is used to pay arrears of dividends (30). When the guaranty fund amounts to a sum equal to the capital, and interest has been paid on the deposits, and dividends to date on the capital, then if there are still net profits remaining, the directors reserve from them a sum not exceeding one-fourth of the per cent of total deposits, to be known as an indemnity fund; this is allowed to accumulate until it amounts to 10 per cent of the whole deposits (31). Once in every three years, if the net profits have accumulated above both guaranty and indemnity funds, and amount to 1 per cent of all the deposits of a year's standing, then this excess is divided among the depositors whose deposits have been in the bank at least one year, in proportion to the interest that has been paid them during the last three years (32).

II.—Liabilities and Duties of Stockholders and Directors.

There is double stockholders' liability, as stated under Banks (constitution, Art. XVI, sec. 16, amd. in 1904; and 59).

The general provisions for directors' liability, stated under Banks, apply to savings banks (59), and also the provision for directors' liability when deposits are accepted with knowledge of the bank's insolvency (67). There must be from five to thirteen directors, who must be stockholders of the savings bank, and a majority of them citizens of Texas. No one is disqualified from being a director by reason of his being a director of another bank or savings bank (19). Directors forfeit their position if they borrow

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from the savings bank or fail for three months to perform their duties. They receive no salary (22) unless their duties require regular attendance, in which case a majority vote, exclusive of that of the director interested, is necessary to vote a compensation (36). They meet at least monthly (23). They examine the savings bank's affairs before any dividend or interest is paid (33). Three of them annually make an examination on which the November report is based (71). An incomplete sentence in 20 apparently was meant to provide that no person acting for a savings bank might receive a compensation for a loan made by the bank other than that apparent on the face of the contract of loan (20).

III.—Supervision.

The general provisions with regard to powers of the superintendent are discussed in Banks. Certain occasions on which he institutes proceedings against savings banks were also stated there. A special section in the act deals with proceedings by the superintendent against savings banks. If it appears to him from an examination or report that a savings bank is conducting its business unsafely he directs a discontinuance of the unauthorized practices, and if the corporation neglects to report, or comply with his orders, or if it appears to him that the corporation should stop business, or that its depositors' interests are jeopardized, or that officers have been guilty of misconduct, or that a serious loss has been suffered, then he institutes, through the attorney-general, whatever proceedings are necessary, including those for orders restraining payment of money, for receivership, etc. The superintendent may take temporary possession of the savings bank (74).

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REPORTS.

Not less than twice a year the superintendent calls for reports in the form given under Banks (49). It is apparently intended that, in addition to these reports, every savings bank should on or before November 1 of each year report in whatever form the superintendent prescribes its condition on the preceding September 1. This report must state the amount loaned on bonds and mortgages; particulars as to value of bond investments; amount loaned on pledge of deposits; cash on hand and on deposit, and all other assets; also all liabilities, including dividends and any other claims chargeable against assets; also amount of all deposits made during the year; amount drawn out; interest received; interest paid; accounts opened, reopened, and closed; the number of open accounts at the end of the year; and any other information the superintendent may require (69 and 70).

The superintendent reports to the legislature the condition of all savings banks from which he has had a report, together with items as to new savings banks authorized (72). The result of examinations is embodied in the superintendent's annual report (73).

EXAMINATIONS.

Every two years, and oftener if he thinks it necessary, the superintendent or a subordinate examines every savings bank. The result of examinations is reported to the legislature (73). Savings banks, if they are within the description "banking corporations," are within the terms of 39 also, however, which, as amended by the 1909 statute, requires examinations at least quarterly. The directors make an examination before declaring dividends or interest (33). Not less than three of them on September

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1 of each year thoroughly examine the affairs of the savings bank, on which examination the annual report is based (71).

IV.—Reserve Requirements.

There must be kept an available cash fund of not less than 15 per cent of the whole amount of assets. This fund may be in cash or on demand deposit in Texas or United States banks, approved by the superintendent, and having a paid-up capital of $50,000 or more. The deposits in any one bank or trust company, however, must not exceed 20 per cent of the total deposits, capital, and surplus of the savings bank depositing (18). The requirement for the savings department reserve of a bank or trust company is 15 per cent of savings deposits in cash (1909, chap. 15, 13).

V.—Discount, Loan, and Deposit Restrictions.

No director or officer of a savings bank may borrow the corporation's funds (22). An incomplete sentence in 20 was apparently intended to provide that neither the savings bank nor any one acting for it should receive compensation on account of a loan made by the bank, other than that appearing on the face of the contract of loan (20).

The limit on deposits from one individual or corporation is $4,000, including dividends. This does not apply, however, to trust funds, moneys arising from judicial sales, etc. Pass books are verified at least every three years (26). Certificates of deposit payable on demand or at some other time may be issued (24).

See Banks, I, for the proportion of deposits allowed to capital; the section imposing this requirement (1909, chap. 15, 27) applies to "any bank." See also Banks, V, for other provisions possibly applicable to savings banks.

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VI.—Investments.

Savings banks may hold real estate for their domicile, part of which may be rented (but the real estate thus held must not exceed in value 20 per cent of the capital), and such real estate as is purchased on foreclosure of mortgages owned by the bank, or on judgments rendered for debts due to it, or taken in settlement of previous debts. All lands but the domicile must be sold within five years (20).

Savings banks may not engage in trade, but may sell all kinds of property that come into their possession as securities for loan or in the ordinary collection of debts (54). The regular investments of savings bank funds are as follows: First, securities of the United States; second, bonds of Texas, or of any other State that has not within five years defaulted on the bonds in question; third, bonds of Texas municipalities which have not defaulted on the bonds within five years; fourth, first-mortgage bonds of any steam railroad, the income of which is sufficient to pay all operating expenses and fixed charges, if the railroad has its domicile in Texas; fifth, bonds or notes secured by first mortgages of unincumbered real estate worth twice the amount loaned; the mortgage investment of savings banks, however, must not exceed 60 per cent of their total assets; sixth, real estate necessary to furnish a domicile for the savings bank, but no more (17). To provide for current expenses any of the securities held by the savings bank may be sold or pledged (18).

VIII.—Branches.

These are forbidden (Constitution, Art. XVI, sec. 16, amd. in 1904; and 4).

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X.—Unauthorized Banking.

(See this heading under Banks.)

XI.—Penalties.

Special savings bank penalties are as follows: The director who borrows funds or neglects his duties for three months loses his position (22). If a savings bank fails to furnish any report it forfeits $100 a day while the report is withheld (71).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust company business may be combined with banking, savings banking, or both (63). The statute apparently requires that trust companies do a banking business (8 and 9).

The capital must be not less than $50,000 nor more than $10,000,000 (12), fully subscribed in cash (constitution, Art. XVI, sec. 16, amd. in 1904). Shares are of $100 each (9). A provision of the 1909 statute, given under Banks, I, requires increases in capital stock when deposits reach certain amounts; the section applies only to "any bank" in the circumstances described (1909, chap. 15, 27).

(For provisions for dividends and surplus, see I under Banks. The various provisions for the conduct of the savings department of a bank or trust company, found in the 1909 statute, are given under Banks.)

II.—Liabilities and Duties of Stockholders and Directors.

There is a double liability of stockholders, as seen under Banks (constitution, Art. XVI, sec. 16, amd. in 1904; and 59).

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See Banks also for liability of directors who declare an illegal dividend (50 and 58); for general directors' liability (59); and for the liability of any director or employee who receives deposits when the company is insolvent (67). There must be from five to twenty-five directors, who must be stockholders, and a majority of them citizens of Texas (12).

III.—Supervision.

The provisions for supervision of trust companies are in general the same as those for the supervision of banks. Trust companies may deposit securities worth $50,000 with the state treasurer to secure for themselves privilege of doing certain trust company business (66).

Reports and Examinations are the same for trust companies as for banks (49 and 39).

IV.—Reserve Requirements.

There is no specific requirement for trust company reserves, and although the phraseology of section 7, requiring a 25 per cent reserve for banks, makes that section applicable to "every banking corporation," those words are used in the early sections of the act apparently to mean banks only.

V.—Discount and Loan Restrictions.

The restriction on loans to any individual or company, stated under Banks, applies also to trust companies (53). So also does the restriction on loans on security of the stock of other banking corporations (1909, chap. 15, 28). See Banks, V, for various other provisions, the language of which indicates whether or not they extend to trust companies.

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VI.—INVESTMENTS.

(See this heading under Banks.)

VII.—OVERDRAFTS.

The list in which the item "overdrafts" appears is one required to be furnished by trust companies as well as banks and savings banks; overdrafts seem, therefore, to be permitted (46).

VIII.—BRANCHES.

These are forbidden (constitution, Art. XVI, sec. 16, amd. in 1904; and 4).

X.—UNAUTHORIZED TRUST COMPANY BUSINESS.

See Banks, X.

XI.—PENALTIES.

See Banks, XI.

XII.—DEPOSITORS' GUARANTY SYSTEM.

See Banks, XII.

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UTAH.

All the statutes of Utah in force January 1, 1908, are in the Compiled Laws of Utah, 1907. The session laws of 1909 have also been examined. Most of the provisions applying to banks are found in the following chapters: Title 76, chapter 7, "Bank examiner;" title 14, chapter 5, "Banking corporations and banks;" and title 14, chapter 9, "Loan, trust, and guaranty associations." The digest groups banks and savings banks under one head, and trust companies under another. The provisions concerned with the bank examiner are in terms applicable to all three classes. Also the chapter on trust companies subjects these companies to the same rules as govern banks with regard to reports, penalty for failing to report, and the winding up of their affairs in certain cases (430). It is therefore true that the terms of the digest under III, Supervision, in "Banks and savings banks" apply except where noted to all three classes; the other particular instances are noted where the statutes on banks and savings banks apply also to trust companies. Certain provisions of the statutes applicable to private bankers are inserted in a paragraph at the end of "Banks and savings banks." The numbers in parenthesis refer to sections in the Compiled Laws 1907.

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BANKS AND SAVINGS BANKS.

I.—Terms of Incorporation.

Corporations to conduct commercial banks, savings banks, or banks having departments for both sorts of business are formed under the general corporation law (374). Banking corporations may in no case have to exceed $1,000,000 capital stock. The capital stock must never be less than $10,000; in cities of from 3,500 to 10,000, not less than $25,000; in cities of from 10,000 to 20,000, not less than $50,000; and in cities of 50,000 or more, not less than $100,000. Twenty-five per cent of the capital stock must be paid in in cash before business is begun (375). Unpaid subscriptions must be paid in cash in monthly installments of at least 10 per cent per month (377).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders in every corporation for banking purposes, in addition to the amount of capital stock subscribed and fully paid by them, are individually responsible for the same amount in addition, for all the corporation's liabilities (382, and constitution, art. 12, sec. 18). This extension of stockholders' liability applies to trust companies when they receive commercial or savings deposits (424).

III.—Supervision.

The state official who examines bank affairs is the bank examiner (2441), whose salary is $1,800 a year (2050, amd. by 1909, chap. 22), and whose term of office is during the pleasure of the governor. The examiner must not be interested in banks, loan, trust, or guaranty associations,

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building and loan associations, or insurance companies (2442).

This official's authority does not extend to the institution of suits for receivership, however. In the chapter on "Banking corporations and banks," it is provided that where cancellation of shares for nonpayment of subscriptions reduces the stock of "any bank" below the minimum, and the capital is not made good within thirty days, a receiver may be appointed upon the application of the attorney-general (377). In that chapter it is also provided that "every bank" must keep a certain reserve, and that if the reserve falls below the amount required and is not made good within thirty days after notification by the secretary of state, a receiver may be appointed (378). In the chapter on banks it is also provided that the secretary of state, when satisfied that "any bank" has become insolvent or allowed its capital to be impaired or violated a provision of law, may, through the attorney-general, apply for a receiver (390). It is not quite clear just which of these provisions are made applicable to trust companies by the provision that they are bound by the provisions of law governing banks "as to the winding up of their affairs in certain cases" (430).

REPORTS.

Every banking corporation or private banker, domestic or foreign, transacting a business in Utah, must report to the secretary of state not less than four times each year according to the form prescribed by him. The report must state the condition of the bank at the close of business on any past day within three months before the date of the call, specified by the secretary of state. It must be sent to his office within five days after the receipt of his request and must be published by the bank in a local newspaper. The secretary of state has power to call for

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special reports when he thinks them necessary (388). These provisions for reports are specifically extended to trust companies by section 430.

When the secretary of state requires it, the bank examiner makes a detailed report of the condition of the banks he has examined (2445).

The reports of corporations doing a banking business in Utah required for purposes of taxation are dealt with in 2507 and 2512.

EXAMINATIONS.

The examiner makes a thorough investigation of all books, papers, securities, and affairs of domestic banks and trust companies, at least once a year, and oftener if the secretary of state thinks it necessary. He examines the affairs of foreign companies at whatever time the secretary of state prescribes (2441 and 2443).

IV.—Reserve Requirements.

Every bank must keep a reserve in available funds equal to at least 15 per cent of the aggregate amount of its commercial deposits and immediate liabilities. In the case of banks located in cities having a population of 25,000 or more the reserve must be 20 per cent. For savings deposits and immediate liabilities it must be 10 per cent. Available funds consist of cash on hand and balances due from good solvent banks. If the available funds fall below the reserve requirement, the bank must not increase its liabilities except by discounting or purchasing sight exchange (378).

V.—Discount and Loan Restrictions.

The total liability to any banking corporation of any person, company, or firm, for money borrowed, including

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in company or firm liabilities, those of the members, must never exceed 15 per cent of the capital and surplus, but the discount of various sorts of commercial paper is not construed as borrowed money (380).

Officers must not borrow from their corporation to an amount exceeding one-tenth of its capital, nor in any case to exceed $10,000. Moreover, for all loans to an officer he must furnish security in at least double the amount of the loan, must not borrow for a period of more than three months, and must not give his stock as security for the loan. No officer may indorse or be security for loans to others (379). If a trust company receives commercial or savings deposits it becomes subject to the above restrictions on loans (424).

VI.—Investments.

A banking corporation may hold such real estate as is necessary for its accommodation in the transaction of its business, such as is mortgaged in good faith to it, such as is conveyed to it in satisfaction of previous debts, and such as it purchases at judgment or foreclosure sales on liens held by it, or purchases to secure debts due it (376).

XI.—Penalties.

Failure of a banking corporation, private banker, or trust company to report, entails a penalty of $50 per day during the delay (389 and 430).

The officer of any banking corporation who borrows from the corporation contrary to the statute forfeits his position (379). Officers and employees of banks who receive deposits knowing the bank is insolvent are guilty of a felony (4412). Directors, officers, or employees who commit various frauds, among them deception practiced upon an agent appointed to examine the corporation's

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affairs, are guilty of a felony punishable by imprisonment of from one to ten years and a fine not greater than $10,000 (4413).

(See other penal provisions in sections 4411, 4414, etc.)

PRIVATE BANKERS.

Limited partnerships may not be formed for banking purposes (1687). CAPITAL.—No person or firm may engage in private banking without a paid-up capital of at least $10,000; in cities of from 5,000 to 10,000 at least $15,000; in cities of from 10,000 to 20,000 at least $25,000; in cities over 20,000 at least $50,000 (385). INVESTMENTS in real estate must be only for the purposes enumerated under Banks and savings banks (386). PENALTY.—Private bankers who violate the statute are guilty of a misdemeanor punishable by a fine not exceeding $500 (387).

TRUST COMPANIES.

I.—TERMS OF INCORPORATION.

The paid-up capital must be not less than $25,000, and in cities of the first class not less than $100,000 (428). (For classification of cities see section 174.)

(See II, III, and V under Banks and savings banks for II—Stockholders, etc., III—Supervision, and V—Loans.)

VI.—INVESTMENTS.

Loan, trust, and guaranty associations must keep their capital stock in money on hand, or on deposit in solvent banks, or invested in United States bonds, bonds of Utah, bonds of Utah municipalities, or in first mortgages on Utah real estate, the amount invested in any mortgage not to exceed 50 per cent of the value of the land (429)

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VERMONT.

The digest for this State includes all statutes which appear in the Public Statutes of Vermont, 1906, and in the laws of 1908. In the revision, chapter 26 is entitled "Bank commissioner," and title 27 is entitled "Banks." Title 27 is divided into five chapters, of which the digest is concerned with the first, chapter 197, "Savings banks, Savings institutions, and Trust companies." There is no legislation on commercial banks, and the provisions of chapter 197 have to be classified in determining which relate to savings banks and which to trust companies, simply by the language of each individual provision. This seems unsatisfactory, for one section, 4686, enacts that all institutions receiving money in a trust capacity and paying interest on it are subject to "the laws regulating savings banks and trust companies," a provision which, if it does not argue that savings banks and trust companies are subject to the same laws (this is a possible inference from the quoted words), at least says clearly that trust companies, which must commonly fall within the definition of the statute ("every moneyed institution in this State soliciting money in a trust capacity and paying interest thereon"), are subject to every provision given in the digest whether the language of the section in question is carefully framed to include savings banks only, or equally carefully framed to include trust companies

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only. A possible construction is that the separation of savings banks from trust companies is meant to be preserved, and that the sort of corporation defined is to be brought under trust-company provisions only; this desirable conclusion is supportable only on the theory that in writing "laws regulating savings banks and trust companies" the legislature, designating the statutes as they are arranged—for the two classes are treated in the one chapter—nevertheless meant "such of the laws regulating savings banks and trust companies as are applicable to trust companies," in which case "laws regulating trust companies" would have been less confusing language. Numbers in parentheses refer to sections in the revision of 1906; references to the session laws of 1908 are by the number of the act in question and the particular section in it.

SAVINGS BANKS.

I.—Terms of Incorporation.

Most of the provisions which name savings banks point to a system of membership, as distinguished from stock, corporations (4618, etc.). For example, references are made in the statutes constantly to a division of interest or dividends among depositors (4663); the section in the statutes providing for stockholders' liability mentions trust companies, but not savings banks (4657); and the section forbidding loans on capital stock as collateral is framed the same way (4656).

The members of every savings bank must be citizens of Vermont, and each bank may not have more than fifty members (4618).

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Each savings bank at the time it makes a semiannual dividend must reserve from net profits not less than one-eighth of 1 per cent of total deposits as a surplus, until this fund amounts to 10 per cent of all deposits and other liabilities except surplus (4662 amd. by 1908, No. 111, 1). The rate of interest or dividends, not exceeding 1¾ per cent semiannually until surplus amounts to 5 per cent of deposits, after which the rate may be 2 per cent semiannually, is arranged to divide the profits of the corporation, after deducting expenses and such contributions to surplus as the trustees deem expedient, among the depositors, who may be divided into classes for the purpose of dividends (4663 amd. by 1908, No. 111, 2). The accumulation of surplus toward a 10 per cent amount, and the 10 per cent surplus after it has been collected, must not be reduced by dividends, but when the 10 per cent surplus has been reached the trustees may declare such dividends as they think the earnings warrant (4665). No dividends may be paid until, after an examination by the trustees, it is found that they are actually earned (4666). Triennially, if the net profits above the 10 per cent consisting of reserve fund and other accumulations amount to 1 per cent of deposits which have remained in the savings bank for a year preceding, a savings bank may divide these profits among depositors of a year's standing in proportion to the amount of dividends declared on their deposits during the preceding three years (4667).

II.—Liabilities and Duties of Trustees.

There must be no fewer than seven nor more than eleven trustees, elected from the members of the corporation. No person may hold office in two savings banks at the same time, nor may a president, vice-president, etc., of a savings bank hold certain offices in a national bank or trust company in Vermont. A majority of the trustees

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of a savings bank may not be directors in the same national bank or trust company (4615). There may be committees of investment, examination, and audit subject to the control of the trustees (4621). There must be a meeting of trustees at least every three months to receive reports, etc. (4622). At least once a month, and at each regular meeting, the treasurer prepares and records a trial balance. At least once every six months the trustees examine the condition of the corporation by a committee of not less than three of their number acting as auditors (4623). The trustees may receive compensation fixed by the corporation (4624). The trustees must cause an examination and verification of deposit books every fifth year, as stated below (4647).

III.—Supervision.

The state official in charge of banking is the bank commissioner, who must not be a stockholder or officer in a savings bank or trust company and must devote his entire time to the duties of his office. His term is two years (397 amd. by 1908, No. 21, 1) and his salary $2,000 a year (6151 amd. by 1908, No. 21, 3).

The commissioner designates a time of year in every fifth year when the trustees of savings banks, savings institutions, and trust companies must call in deposit books for examination and verification; he approves of the person appointed by each bank to examine the books (4647). The commissioner may prescribe the manner of keeping the books and accounts of a bank (4673, amd. by 1908, No. 21, 2).

Whenever it appears to the commissioner from an examination or report that a savings bank or trust company has violated the law, or is conducting its business unsafely, he orders the corporation to discontinue its illegal or unsafe practices (4678). If the corporation

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neglects to comply with his order, or if it appears to him that it is inexpedient for the corporation to transact its business further, he proceeds against it as against an insolvent savings bank or trust company. The court in which he proceeds may, pending the appointment of a receiver, make what orders seem just (4679).

When a savings bank is insolvent because of depreciation in the value of its assets without fault of the trustees, a chancellor, on petition of the commissioner and a majority of the trustees, must examine the affairs of the bank in question (4669). If he is satisfied that the loss was not due to mismanagement, he may reduce the deposit account of each depositor so as to divide the loss proportionately (4670). Each depositor's account becomes thereupon reduced just so much, but, if the assets should realize more than the chancellor anticipated, a dividend is declared of the excess among the depositors whose accounts were reduced (4671). Pending the chancellor's decree, no deposits may be received, and if he denies the petition to reduce deposits the commissioner proceeds to wind up the bank's affairs (4672).

REPORTS.

The treasurer of every savings bank and trust company must annually on or before the 10th of July report to the commissioner the condition of his corporation as it was at the close of business on the preceding 30th of June. The report includes the following items: Name of corporation; place where located; amount of deposits; amount of individual deposits in excess of $2,000; total number of depositors; number of depositors resident in the State and the total amount of their deposits; number of depositors not resident in the State and the total amount of their deposits; amount of capital, if any (probably required only of trust companies); amount

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of each item of other liability; public funds, including United States, state, county, town, and other municipal bonds, stating each particular kind, the par value, estimated market value, and amount invested in each; bank stock, stating name and location of bank, number of shares, par value, estimated market value, and amount invested in each; loans on bank stock, stating amount in each; other stocks, stating the amount of each; estimated value of real estate and amount so invested; loans on mortgages of real estate, stating amount in Vermont and amount elsewhere; loans to cities, towns, villages, or school districts; loans on personal security; loans on collateral security other than those above mentioned, describing the securities and the amount loaned on them severally; cash on deposit in banks or trust companies, with names of depositaries and amount deposited in each; cash on hand; rate and amount of dividends for the past year; taxes paid during the year, expenses for the year, etc. (4630 amd. by 1908, No. 109, 2). The treasurer of every savings bank and trust company every six years must return to the commissioner a list of depositors who have not dealt with their deposits for ten years. This list must be published in a local newspaper (4643). Dormant deposits of less than $25, including accumulations, and those in the name of persons known by the officers of the bank to be living need not be reported or published (4644). The receivers of insolvent savings banks and trust companies annually, and at such other times as the commissioner requires, must send the commissioner a statement of the affairs of the institution, showing assets and liabilities and expenses incurred, with items (4677). For reports required for taxation see 517.

The commissioner reports biennially to the legislature the condition of savings banks, trust companies, etc.,

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and any violations of law by them. The report includes a statement of the reports of those corporations to the commissioner during the preceding two years, other pertinent information and suggestions (402). Receivers' reports are also embodied in the report of the commissioner; the section in which this is provided refers to the reports of the commissioner as annual (4677). He incorporates the list of dormant deposits in it (4645), and a statement of the condition of any savings bank or trust company which he has examined after failure of the corporation to report (400 and 4631).

EXAMINATIONS.

If the treasurer of a savings bank or trust company fails to report, the commissioner annually on or before July 25 examines the corporation and makes a statement covering the items which should have appeared in the report (400 and 4631). Regular examinations are made semi-annually without previous notice to inspect the condition of every savings bank and trust company. They may be oftener if the commissioner thinks it necessary (4673, amd. by 1908, No. 21, 2). When the business of a savings bank or trust company is carried on in the same office or building with a national bank, the commissioner makes his annual examination coincidently with the federal examination (4674). The chancellor's examination, when proceedings have been begun to scale down the deposits in a bank whose assets have depreciated, is explained above (4669 *et seq.*).

The trustees have a thorough examination made by a committee of not less than three of their number every six months (4623). They make an examination before declaring dividends (4666). Every fifth year they call in deposit books for examination and cause them to be

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examined and verified by some one employed for the purpose and approved by the commissioner (4647).

V.—Discount, Loan, and Deposit Restrictions.

A trustee or officer of a savings bank may not borrow the bank's funds or deposits, or be surety for a borrower (4625). No officer, trustee, director, or employee of a savings bank or trust company may take a fee from a borrower or from anyone negotiating securities at the bank; he is entitled only to the benefit which he shares with other depositors or stockholders, and whatever compensation the corporation allows for his services (4658).

No savings bank or trust company may loan to "any one person, firm, or corporation, or the individual members thereof," more than 5 per cent of its deposits nor more than $30,000; "such loans on personal security" must not exceed $10,000 until the deposits with the corporation amount to $1,000,000, after which the loans may be increased 1 per cent of the deposits in excess of $1,000,000. The restrictions in this paragraph do not apply, however, to United States bonds, municipal bonds, or notes with such bonds as collateral (4655).

No loans or investments may be made on personal security except upon at least two approved names, not less than two of whom reside in Vermont or within 50 miles of the loaning institution. No loans may be made on notes or drafts given by individuals, firms, or corporations residing outside Vermont for goods manufactured within Vermont, the paper being payable to individuals, firms, or corporations located in Vermont. Personal loans must be for not longer than a year, and not more than one-third of the assets of a savings bank or trust company may be invested in personal securities (4652).

A savings bank may receive deposits of not over $2,000 from any one depositor. No interest or dividend may be

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paid to any one depositor for a deposit of over $2,000 except deposits by widows, orphans, charitable or religious institutions, and fiduciaries (4632).

(See VI for restrictions on loans incidentally mentioned there.)

VI.—INVESTMENTS.

A savings bank or trust company may hold real estate acquired by foreclosure of a mortgage to the corporation, or by purchase at a sale under such a mortgage, or upon judgments for debts due, or in settlement to secure debts due. Such real estate must be sold as soon as a reasonable price can be obtained for it, and within five years. Any extension given by the commissioner must be for not longer than five years (4660, amd. by 1908, No. 110). Five per cent of the deposits of a savings bank or trust company may be invested in a suitable building for the transaction of its business, from portions of which rent may be derived (4653).

Deposits and surplus of savings banks and trust companies may not be invested in mortgages of real estate, except in first mortgages of unincumbered real estate, if the investment does not exceed three-fifths of the cash value of the property mortgaged. Not less than one-sixth of the amount of mortgages held by the bank must be in real estate in Vermont, and not more than 80 per cent of the amount of assets may be invested in mortgages of real estate, nor more than 60 per cent of assets in mortgages of real estate outside Vermont. If the mortgages are on unimproved or unproductive real estate, the investment must not be more than 40 per cent of its value. Mortgage investments must be approved by three trustees of the board of investment (4648).

Except as given above, deposits and income from deposits of savings banks and trust companies may be

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invested only in the following: United States securities; bonds or notes of municipalities of the New England States and certain other named States; stock of any national bank in New England, New York, and named cities; stock of any banking association or trust company incorporated under Vermont law and located there; municipal bonds, not issued in aid of railroads, of counties, towns, and cities of 5,000 or more in named States, and of counties, towns, and cities of 10,000 or more in other named States, but no investment shall be made in any of the counties, towns, or cities in the States above named (except in cities of 50,000 or more inhabitants) where the municipal indebtedness of the county, town, or city exceeds 5 per cent of its assessed valuation and when not issued in aid of railroads; school bonds of named States; school bonds of school districts of 2,000 or more in named States, where the amount of the bonds issued does not exceed 5 per cent of the valuation for taxes of the issuing municipality; public funds of any State named in the section on investments; notes with a pledge of the securities named in this paragraph, including deposit books or deposit receipts issued by a savings bank or trust company or banking association located in Vermont, as collateral, the notes not to exceed the value of the security; but no savings bank or trust company may hold as investment or security more than 10 per cent of the capital of any one bank, nor invest more than 10 per cent of its deposits nor more than $35,000 in the capital of any one bank; and no investment may be made in the stock of any bank, including both purchase, investment and collateral, to exceed one-fourth of the deposits of the investing savings bank or trust company (4654).

A savings bank or trust company may deposit on call in banks or trust companies in Vermont and in named cities, or in any other designated depositary under the

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laws of the United States, or in national banks in named cities, sums not exceeding 20 per cent of the assets of the savings bank or trust company (4659).

IX.—Occupation of the Same Building.

If the business of a savings bank or trust company is carried on in the same office or building with a national bank, the commissioner must make his examinations at the same time that the national bank is examined (4674).

XI.—Penalties.

If the treasurer of a savings bank or trust company fails to report, he forfeits $1,000 for each offense (4631). If he fails to report his list of dormant deposits, he is fined from $20 to $100 (4646). In general the trustee or other officer of a savings bank or trust company who intentionally violates any provision of the chapter on savings banks and trust companies is imprisoned for from one to ten years or fined from $100 to $10,000, or both (4685).

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust company, as used in the chapter on savings banks and trust companies, is construed to include "savings bank and trust companies;" it is clear, then, that the statutes contemplate the receipt by trust companies of savings deposits. The provision allowing savings banks and trust companies to deposit on call in trust companies in Vermont and certain other places implies that trust companies may receive regular commercial deposits (4659).

A chapter in the revision of 1906, chapter 198, is entitled "Trust companies may act in fiduciary capacities." Moneys, property, or securities held by a trust company

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under the provisions of this chapter must be kept separate from "its general business," and not mingled with investments of its capital and other assets (4690).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of a trust company are individually responsible for all obligations of the company to the extent of the amount of their capital stock in the company at par in addition to the amount invested in the stock (4657).

All the provisions given under Savings banks, II, relating to trustees are framed in the statute to apply only to savings banks, except that which requires "the trustees of savings banks, savings institutions, and trust companies" to verify deposit books every five years (4647).

III.—Supervision.

The same official exercises supervision over trust companies as over savings banks. See Savings banks for his duties with respect to trust companies. His duties in case of a bank's misconduct are the same for trust companies as for savings banks (4678 and 4679). He has supervision over the examination of deposit books of trust companies (4747). The provisions for reducing deposits under order of the chancellor are framed only to include savings banks (4669 *et seq.*).

Reports are as given under Savings banks. Examinations are also in most respects as given under Savings banks. There are, however, not the incidental examinations by the chancellor (4669 *et seq.*), nor the monthly trial balances by the treasurer (4623), nor the examinations by the trustees before declaring dividends (4666). The commissioner has the added power to examine

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a trust company before authorizing it to do fiduciary business (4691), and he is also given power to make such further examinations of companies doing a fiduciary business as he may deem necessary; he examines trust companies doing a fiduciary business when ordered to do so by a court (4692). For the requirement for examinations of a trust company whose business is connected with that of a national bank, see VIII, *infra*.

V.—Discount and Loan Restrictions.

The provisions under this head are the same as those under Savings banks except as follows: Section 4625, forbidding a trustee or officer of a savings bank to borrow its funds or deposits, does not seem to extend to trust companies, nor does the provision of section 4632 for limiting the amount of individual deposits. There is a special limitation for loans to trust company officers; no loan may be made to an officer, director, or employee of a trust company without the consent of a majority of the directors, nor may such a loan ever exceed 5 per cent of the paid-in capital, but the discount of bona fide bills of exchange drawn against existing values and of commercial paper owned by the officer, etc., negotiating it, to an amount not exceeding $10,000, and loans on mortgage of real estate under the terms of section 4648 (see second paragraph under VI, Savings banks), and loans on pledge of securities named in section 4654 (see third paragraph under VI, Savings banks) to an amount not exceeding the same sum, $10,000, are not prohibited. No loan may be made by a trust company on its own stock as collateral (4656).

VI.—Investments.

The capital of trust companies, and of savings bank and trust companies, must be invested as their surplus and

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deposits are (4649). The surplus and deposits must be invested as stated under VI under Savings banks.

IX.—Occupation of the Same Building.

The provision here is slightly different from that for savings banks: When the treasurer or cashier of a trust company is an officer of a national bank, or the business of a trust company is carried on in the same office or building with a national bank, then the commissioner must examine the trust company at least annually, when the federal official examines the national bank.

XI.—Penalties.

(See Savings banks.)

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VIRGINIA.

In preparing the digest for Virginia, the Code of 1904 has been used, with the acts of assembly of 1906 and 1908. In the code, chapter 48 is entitled "Of banks of discount and deposit;" chapter 48A is entitled "State banks of circulation;" and chapter 49 is entitled "Of savings banks." Chapter 48A, on the advice of the state corporation commission, has been omitted from the digest as obsolete; many of its provisions, since they deal with circulation, would, under the general plan of the digest, be omitted in any case. Note that although, to avoid repetition, the provisions given under "Banks" are not repeated under "Savings banks," still all the provisions of chapter 48 (secs. 1154–1173) are, unless in conflict with the savings bank chapter, applicable also to savings banks (1154). Trust companies are within the scope of chapter 112 of 1906, an act concerning the bureau of insurance and "insurance, guaranty, trust, indemnity, fidelity, security, and fraternal benefit companies." This statute is in the main concerned with insurance matters; what few of its provisions deal with trust companies (and even these are clouded by the association of trust with guaranty, security, etc., business) are digested under "Trust companies." Under that heading also are noted the provisions of other statutes which mention trust companies; it must be noted, however, that more statutes

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than those in which trust companies are thus mentioned do apply to them, for Mr. Robert R. Prentis, chairman of the state corporation commission, is authority for the statement that the commission considers all trust companies in Virginia receiving deposits liable to the banking laws; this construction has never been contested by any trust company in Virginia. References, where they are simply numbers in parenthesis, are to sections in the Code of 1904; other references are by year, chapter, etc.

BANKS.

I.—Terms of Incorporation.

No bank, savings bank, trust company, or other institution of like kind may be chartered with a smaller capital than $10,000 (1908, chap. 207).

No dividend of a higher rate than 6 per cent a year may be paid on the capital stock of a bank until there is a surplus of at least 5 per cent of the capital (1168).

II.—Liabilities and Duties of Stockholders and Directors.

There is no special provision for liability of stockholders in banks.

There must be a board of directors of not less than five, a majority of whom must be citizens of Virginia (1157). Each director must own at least $100 par value of stock (1165). The board must meet at least monthly (1159), and must make an examination of the bank's accounts at least once every three months (1160). No director may purchase or discount, at a rate of interest exceeding that which the bank might demand, any note or bill which the bank has refused to discount, provided the director knows of the bank's refusal (1158).

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III.—Supervision.

There is no officer in Virginia charged with the duty of supervising the affairs of banking as distinguished from other corporations. In general, corporations in Virginia are under the control of the state corporation commission, a board of three members appointed for terms of six years (chap. 56A, and constitution, sec. 155).

If the corporation commission thinks it necessary for the protection of the interests of the depositors and creditors of any "joint-stock company, bank, banking institution, savings bank, savings society, or savings institution" they may apply to a court for a receiver to wind up the affairs of the corporation in question. This proceeding is usually the result of finding upon examination that the corporation in question is insolvent or unable to meet its obligations. There are special requirements in the case of state depositaries (1169). If a corporation fails to report, the commission gives notice of the default by publication in a local newspaper (1170).

Reports.

"Every joint stock company and every bank and banking institution (including savings banks, savings societies, and savings institutions)" must annually report to the corporation commission its financial condition at such times as the commission prescribes, "identically as the national banks * * * are required to make their statements." These reports are published. The commission provides forms which must be filled in and returned within thirty days after the call (1169). Banks report funds deposited under order of court to the auditor of public accounts (1171*b*).

(For reports required for purposes of taxation see 1908, p. 325.)

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EXAMINATIONS.

The state corporation commission not less than once a year, and as much oftener as it thinks necessary, causes every "bank, banking institution, savings bank, savings society, or savings institution" that has been designated a state depositary to be examined. Any corporation of the sort named, even if not a state depositary, is examined by some one appointed by the commission whenever stockholders representing one-fifth of the capital request it, or whenever the commission deem it necessary (1169). The board of directors examine the bank's affairs every three months (1160). The legislature may, at any time, by a committee or by commissioners, inspect the affairs of the sorts of corporations named (1172).

V.—DISCOUNT AND LOAN RESTRICTIONS.

Power is given to banks to loan money "on real and personal security or collateral" (1161). No loan may be made to a stockholder on the security of his shares until they are fully paid according to the terms of the subscription agreement (1164). No director may discount paper at a higher rate of interest than his bank might demand after he knows the bank to have refused to discount the paper (1158).

VI.—INVESTMENTS.

A bank may only hold such real estate as is necessary for its accommodation in the transaction of its business; such as is mortgaged to it; such as is conveyed to it in satisfaction of previous debts; and such as it purchases at judicial sale under liens held by it, or purchases to secure debts due it. Except for the real estate held for business purposes, none may be held for longer than fifteen years (1163).

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Among banking powers are those of "purchasing and selling all stocks and bonds" (1161). Deposits and other funds may, therefore, be so invested (1162).

X.—Unauthorized Banking.

Limited partnerships may not be formed for banking purposes (2863). The members of any association or company carrying on a banking business without authority of law, and their officers and agents, are punished by a fine of from $100 to $500, and imprisonment for not longer than six months (3829).

XI.—Penalties.

Any "joint stock company, bank, banking institution, savings bank, savings society, or savings institution" which fails to report within thirty days after the commission's call is punished by fine of from $100 to $1,000. Any officer of such a company who makes a false statement of its condition is guilty of a felony, punishable by fine of from $100 to $5,000 and imprisonment for from one to ten years (1170). Any officer or employee of "any bank, banking institution, savings bank, savings society or savings institution" who receives or permits to be received deposits, with knowledge that the corporation is insolvent, is fined double the amount received and imprisoned from one to three years (1171). Banks which fail to report to the auditor deposits under order of court are subject to a fine of from $5 to $20 a day (1171*b*).

SAVINGS BANKS.

I.—Terms of Incorporation.

It is provided that "all banks and banking institutions (including savings banks, savings societies, and savings

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institutions)" are governed by the provisions of chapter 48, except that savings banks are, in case of conflict, under the control of chapter 49 (1154). (See Banks for the provisions of chapter 48, which includes sections 1154–1173.) The late statute requiring a minimum capital of $10,000 includes, in its enumeration of the corporations subject to the requirement, savings banks (1908, chap. 207). It appears, therefore, that savings banks in Virginia are institutions with capital stock.

II.—Liabilities and Duties of Directors.

There must be not less than five directors (1176). The provision of chapter 48 that a majority must be citizens of Virginia is applicable (1157). See also the provisions given under II under Banks prohibiting a director from discounting, at a higher rate of interest than a bank might have demanded, paper which he knows the bank has refused (1158); and requiring directors to meet once every three months and settle the bank's accounts (1160).

III.—Supervision.

(See III, under Banks.) The section in the Code providing for REPORTS, EXAMINATIONS, and proceedings against insolvent banks specifically includes savings banks (1169); so does the section allowing examination by the legislature (1172).

V.—Discount and Loan Restrictions.

If savings banks are to be subject to all the provisions of chapter 48 which are not overridden by chapter 49, it seems the power to loan money "on real and personal security or collateral" is given savings banks (1161), and that the restrictions upon discount by directors of paper refused by the bank hold good (1158).

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The funds of a savings bank may be loaned on any stocks or real security (1180). (See also below.)

VI.—INVESTMENTS.

The restrictions on investments in real estate seem to be—since not provided for in chapter 49—the same as those of chapter 48; see VI under Banks.

The funds of a savings bank may be invested in "any stocks or real security;" they may be used in "purchasing or discounting bonds, bills, notes, or other paper," but no security which has become payable, other than bonds of Virginia, of the United States, or of corporations, may be purchased for less than its full value with all interest due, and no debt or claim to become due, other than those securities, may be purchased or discounted at a rate of discount or interest exceeding one-half of 1 per cent for thirty days (1180). See also the provision of chapter 48 which allows purchase and sale of all stocks and bonds (1161).

XI.—PENALTIES.

See Banks; sections 1170 and 1171, in the language quoted, are extended to cover savings banks.

TRUST COMPANIES.

I.—TERMS OF INCORPORATION.

See introductory paragraph; trust companies are subject to all the banking statutes.

Trust companies are mentioned in the statute which requires banks, savings banks, and trust companies or other institutions of like kind to have a capital of at least $10,000 (1908, chap. 207). No guaranty, trust, etc., company may begin business until the full amount of its minimum capital stock, which must in any case be not

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less than $50,000, has been paid in cash or invested in solvent securities of equivalent value (1906, chap. 112, chap. VIII, sec. 1).

III.—Supervision.

The insurance act of 1906 provides for a bureau of insurance of the state corporation commission, charged with the execution of laws relative to insurance, guaranty, trust, etc., companies. The chief officer is the commissioner of insurance, whose term of office is four years, and whose salary is $3,500. He and his subordinates must not be connected with companies affected by the insurance act. When the bureau reports insolvency, etc., to the corporation commission the material in their report must be kept secret (1906, chap. 112, chap. I, secs. 1, 2, 4, 13, and 27).

Guaranty, trust, etc., companies deposit bonds with the state treasurer to an amount equal to 5 per cent of their capital as security for their obligations (1906, chap. 112, chap. VIII, sec. 4).

If the commissioner of insurance is of the opinion, from an examination or from other information, that a guaranty, trust, etc., company is insolvent, or has failed to comply with the law, or if the company refuses to submit to examination, or to furnish evidence of its business standing, or refuses to perform requirements imposed by law, he reports to the corporation commission, who, after a hearing, may revoke or suspend the certificate of authority to transact business (1906, chap. 112, chap. I, sec. 13).

Reports.

It is provided that "all companies of the classes mentioned in this chapter" (terms which include trust companies as well as insurance companies) must report by the

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end of March on forms furnished by the commissioner their affairs for the preceding calendar year, including "the amount of their gross premiums, assessments or dues" and such other information as the bureau of insurance may require in order to assess its expenses upon the companies. The commissioner submits annually to the corporation commission a report of his official acts and the condition of all companies under his supervision (1906, chap. 112, chap. I, secs. 30 and 16). The report to the insurance commissioner required by the act of 1906 does not relieve trust companies from the report to the corporation commission under the banking laws.

A preliminary statement is required by the commissioner from every guaranty, trust, etc., company, showing capital paid in, cash in the treasury, etc. These companies must report to the state treasurer the amount of their capital stock. The commissioner of insurance reports violations of the chapter to the attorney-general in order that the latter may institute proper proceedings (1906, chap. 112, chap. VIII, secs. 1, 4, and 17).

XI.—Penalties.

Any company mentioned in the insurance act, if it fails to make a report required by the chapter, is fined from $100 to $1,000 for each failure (1906, chap. 112, chap. VIII, sec. 18).

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WASHINGTON.

The statutes of Washington are in Ballinger's Annotated Codes and Statutes, a revision including statutes down to 1897, in a supplement through 1903, and in the session laws of 1905, 1907, and 1909. Chapter 225 of 1907 is a fairly complete banking law, governing savings banks as well as commercial banks (1907, chap. 225, 8 and 27). Indeed, section 6 of the act, amended by section 4 of chapter 195 of 1909, seems sufficiently broad to extend the terms of the 1907 statute over all varieties of institutions performing any banking function. It reads: "The term 'banking,' within the meaning of this act, shall be deemed and taken to mean the negotiations for, the discounting of, promissory notes, drafts, bills of exchange, and other evidences of indebtedness, receiving deposits, selling and buying exchange, coin and bullion, and loaning money on personal, real, and other securities, and other kindred financial operations. The term 'bank,' used in this act, shall be taken to mean and include every corporation, domestic and foreign (except national banks and foreign banks and not authorized to receive deposits), transacting banking business in this State." Moreover, section 7 goes on: "Any corporation * * * who shall receive money on deposit, whether on certificate or subject to check, shall be considered as doing a banking business." In reading the

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digest, therefore, it must be borne in mind that the provisions given under "Banks," except the one or two for which chapter 225 of 1907 is not given as authority, are, under this section, applicable to all deposit-receiving institutions. Under "Savings banks" have been given those provisions of chapter 225 of 1907 and other acts which refer to savings banks explicitly. Under "Trust companies" have been given provisions of the sections in the supplement to Ballinger, beginning at page 508 (being chapter 176 of 1903), which deal expressly with trust companies. The statute of 1907 repeals "all acts and parts of acts regulating the organization and management of banks inconsistent with this act," but proceeds to enact that "nothing herein shall be held to repeal any law regulating trust companies" (1907, chap. 225, 52). It seems, then, that, with respect to trust companies, where the provisions given under "Trust companies" and those given under "Banks" conflict, those found under "Trust companies" prevail.

BANKS.

I.—Terms of Incorporation.

Incorporation may be for the purpose of conducting a general banking or savings banking business, or of establishing a bank with departments for both classes (1907, chap. 225, 8, amd. by 1909, chap. 195, 5). In another section it is provided that "any bank which shall designate its business as that of a savings bank shall have power to carry on the business of banking as prescribed and limited in this act, and may receive money on savings deposits" (1907, chap. 225, 27). This would seem to mean that a

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state bank which did not designate its business as that of a savings bank could not do a savings banking business. Any bank combining the business of a commercial bank and a savings bank must keep separate books of account for each kind of business (1907, chap. 225, 28). A provision of the code includes, among the powers of "every bank," that to execute "all trusts, fiduciary or otherwise" (Ballinger's Code, 4266).

Before transacting a banking business a corporation must have property of cash value as follows: In cities, villages, and communities of less than 1,000, $10,000; in those of 1,000 to 2,000, $15,000; in cities of 2,000 to 3,000, $20,000; in cities of 3,000 to 5,000, $25,000; in cities of 5,000 to 10,000, $30,000; in cities of 10,000 to 25,000, $50,000; in cities of 25,000 to 50,000, $75,000; and in cities of more than 50,000, $100,000 (1907, chap. 225, 8, amd. by 1909, chap. 195, 5).

Shares of stock are of $100 each (1907, chap. 225, 9). At least 50 per cent of the capital of every bank must be paid in before it begins business, and the remainder must be paid in in lawful money in monthly installments of at least 10 per cent on the whole capital, payable at the end of each succeeding month from the time business was authorized to be begun (1907, chap. 225, 12). The examiner makes a preliminary examination before issuing a certificate allowing business to be begun (1907, chap. 225, 14, amd. by 1909, chap. 195, 6).

Dividends may be declared out of net profits, but before the declaration not less than one-tenth of the profits for the preceding dividend period must be carried to surplus until it amounts to 20 per cent of the capital; accrued and uncollected interest on the assets of the bank may not be distributed as earnings (1907, chap. 225, 20, amd. by 1909, chap. 195, 8)

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II.—Liabilities and Duties of Stockholders and Directors.

The stockholders are individually liable to the amount of their stock at par in addition to the stock held (1907, chap. 225, 18). There is a constitutional provision imposing double liability on bank stockholders for debts of the bank "accruing while they remain such stockholders" (Art. XII, sec. 11); this was the phraseology of the older statute in the code (Ballinger's Code, 4266).

There must be not fewer than three directors, each of whom must be the owner of at least five shares of stock (1907, chap. 225, 19). If the directors knowingly permit any officer, director, or employee to borrow funds of the bank in an excessive and dishonest manner, every director who participates is liable personally for all damages which anyone may sustain in consequence (1907, chap. 225, 32). Any director or officer of "any banking institution" who is implicated in the receipt of deposits with knowledge that the institution is insolvent or in failing circumstances is individually responsible for the deposits received (Constitution, Art. XII, sec. 12).

III.—Supervision.

The banking official in this State is the state examiner, appointed for terms of four years. He must have been for two years previous to his appointment a citizen of Washington; he must have had four years' experience in the banking business, and must not be interested as owner, officer, or stockholder in any bank (1907, chap. 225, 1, amd. by 1909, chap. 195, 1). He receives a salary of $3,600 a year (1907, chap. 225, 34, amd. by 1909, chap. 195, 8). Neither he nor his subordinates may disclose any

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information obtained in the course of duty except so far as the banking act demands (1907, chap. 225, 47).

The examiner passes upon proposed reductions of capital stock (1907, chap. 225, 17). He approves of proposed points which are not "commercial centers," for deposit of reserves (1907, chap. 225, 33). If by cancellation of unpaid shares the capital of a bank is reduced below the required minimum and is not made good within thirty days, the examiner applies for a receiver (1907, chap. 225, 13). Whenever it appears to the examiner from a report, examination, or other source that the capital of a bank is reduced below the minimum, it is his duty to require the bank to make the deficiency good or to reduce its capital. If his requirements in this respect are not complied with for three months, he proceeds for a receiver (1907, chap. 225, 41). If he finds upon examination that a bank has violated its charter or the law or is conducting its business unsafely, he orders the bank to discontinue its illegal and unsafe practices, and if it fails to comply with his order for thirty days he applies to a court for a receiver (1907, chap. 225, 42). If upon examination or from report it appears that a bank is insolvent, the examiner must immediately take charge of its property. He then ascertains its actual condition by a thorough examination, and if satisfied that it can not resume business or satisfactorily liquidate its debts he institutes proceedings (through the attorney-general, as always—1907, chap. 225, 49) for a receivership. The examiner may appoint a deputy to take charge of the affairs of insolvent banks pending the appointment of a receiver, but this official must never have charge of the bank for a longer period than ninety days (1907, chap. 225, 44). A bank may voluntarily place its affairs under the control of the examiner (1907, chap. 225, 43).

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REPORTS.

Every bank makes at least three reports a year to the examiner on days coincident with those on which national banks report. The examiner prescribes the form of the report, which shows resources and liabilities on the day in question. Each report is transmitted within ten days of the receipt of the request, and is published in a local newspaper. The examiner may call for special reports whenever they are in his judgment necessary to obtain a knowledge of the condition of the bank in question (1907, chap. 225, 36, amd. by 1909, chap. 195, 10). For the old code provision for annual reports, see Ballinger's Code, 4266. For reports required from state depositaries, see 1907, chap. 37, 6. The cashier of "every institution in which deposits of money are made" makes the report explained under Savings banks, III, *infra*, of deposits that have not been dealt with for ten years. Although the quoted words seem to extend this requirement over all deposit-receiving institutions, a later clause in the section refers to "such institutions for deposit of savings," as though the intention was to include merely savings institutions (1905, chap. 129, 1).

The state examiner reports annually to the governor, showing a summary of the condition of all banks subject to his control, at the date of their last report, a list of banks organized or closed during the year, and the finances of the department (1907, chap. 225, 38).

EXAMINATIONS.

The examiner makes a preliminary examination to make sure that a bank is lawfully entitled to commence business (1907, chap. 225, 14, amd. by 1909, chap. 195, 6). The examiner or a subordinate without previous notice visits every bank at least once a year to make a full investigation

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into its condition (1907, chap. 225, 39). The examiner may cause a bank to be examined to make sure that its capital has not been impaired, or that any impairment ordered by him to be made good, has been (1907, chap. 225, 41). He must make a thorough examination as soon as he takes charge of the affairs of any bank's property on the ground of its being insolvent (1907, chap. 225, 44).

IV.—Reserve Requirements.

Every bank must have on hand not less than 20 per cent of its demand liabilities, in balances due from good solvent banks located at commercial centers and at such other points as the examiner may approve of, in actual cash, and in checks on solvent banks in the home city (1907, chap. 225, 33).

V.—Discount and Loan Restrictions.

No bank may accept its own stock as security for loans (1907, chap. 225, 15, amd. by 1909, chap. 195, 7). No officer or employee of any bank may loan to himself any of the funds of the bank upon his own obligation without having obtained the approval of a majority of the directors (1907, chap. 225, 32).

VI.—Investments.

A bank may hold real estate only as follows: Such as is necessary for the convenient transaction of its business, including with its offices other apartments rented; such as it receives in satisfaction of previous debts; such as it buys at judicial sale against securities held by it. Except the first sort of real estate, none may be carried as an asset on the books of the bank for longer than three years (1907, chap. 225, 21). No bank may purchase its own capital stock or that of any other banking corporation (1907, chap. 225, 15, amd. by 1909, chap. 195, 7).

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VIII.—Branches.

Branch bank is defined as "an office of deposit or discount other than the bank's principal place of business" (1907, chap. 225, 6, amd. by 1909, chap. 195, 4). No branch bank may do business until it has satisfied the state examiner that it has invested capital equal to that required of separate corporations engaged in similar business (1907, chap. 225, 14, amd. by 1909, chap. 195, 6).

X.—Unauthorized Banking.

No person, firm, or corporation, except banks or trust companies organized under United States or Washington law, may advertise by a sign on which are any of the words "bank," "banking company," "trust," or "savings," or any other term indicating banking, savings banking, or trust company business, nor may such a person, firm, or corporation solicit deposits as an incorporated bank. The penalty for violating this provision is a fine of not more than $1,000 (1907, chap. 225, 30). For the previous provision on this topic, probably repealed, see Ballinger's Code, 7174.

Foreign banks may do business under certain restrictions, but may not receive deposits (1905, chap. 31).

XI.—Penalties.

Owners or officers of a bank who receive deposits knowing the bank is insolvent are guilty of a felony punishable by fine not to exceed $1,000, imprisonment not to exceed ten years, or both (1907, chap. 225, 22). The owner, officer, or employee who certifies a check when the necessary amount does not stand to the credit of the drawer is guilty of a misdemeanor punishable by fine not to exceed $1,000 (1907, chap. 225, 26).

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Noncompliance with the provisions of the section requiring every bank to hold property of prescribed values before beginning business entails a $100 a day penalty (1907, chap. 225, 8, amd. by 1909, chap. 195, 5). Every officer and director who maintains a branch for which property is not held to the same amount that would be required of a separate institution is subject to a penalty of $1,000 a week while the statute is so violated (1907, chap. 225, 14, amd. by 1909, chap. 195, 6).

Every bank which fails to report is subject to a penalty of $10 a day (1907, chap. 225, 37). See Savings Banks, XI, for penalty for not reporting unclaimed deposits (1905, chap. 129, 2). Any person who makes a false statement, false entry, etc., with intent to deceive an examiner, is guilty of a felony punishable by imprisonment for from one to ten years (1907, chap. 225, 53). If the examiner or a subordinate discloses information except in the course of duty he is fined not exceeding $1,000 with imprisonment until the fine is paid, besides losing his office (1907, chap. 225, 47).

SAVINGS BANKS.

I.—Terms of Incorporation.

See introductory paragraph for the quotation from chapter 225 of 1907 showing that savings banks are within its provisions. Incorporation may be for the purpose of conducting a general banking business, or "to establish banks to be known as savings banks," or to establish banks with departments for both classes (1907, chap. 225, 8). Separate books of account must be kept for the two classes of business when they are combined in one bank (1907, chap. 225, 28). Apparently to do savings banking business, whether in combination with commercial

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banking or not, the bank must "designate its business as that of a savings bank." Savings banks may issue time certificates of deposits, etc. (1907, chap. 225, 27).

III.—Supervision.

Reports.

The requirement for reports of unclaimed deposits is made especially applicable to savings banks. The cashier or secretary of every savings bank and "every institution in which deposits of money are made," must in December of every second year send the secretary of state a statement of the amount standing to the credit of each depositor who has not made a deposit or withdrawn any part of his deposit for ten years, the last known address of such a depositor, and the fact of his death, if known. Notice of these deposits is given by publication in a newspaper once a week for four weeks. If the cashier or secretary knows a depositor to be living, the report need not be made with respect to him (1905, chap. 129, 1).

XI.—Penalties.

If the cashier or secretary of any institution required to report unclaimed deposits fails to make the statement, he is fined from $50 to $1,000 or imprisoned from ten to ninety days, or suffers both penalties (1905, chap, 129, 2).

TRUST COMPANIES.

I.—Terms of Incorporation.

See preliminary paragraph for the quotation which indicates that trust companies are within the terms of chapter 225 of 1907. Trust companies may clearly do

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a banking business, for they are empowered to "receive money on deposit to be subject to check or to be repaid in such manner and on such terms, and with or without interest, as may be agreed upon by the depositor and the said trust company" (1907, chap. 126).

The capital stock of a trust company must be not less than $100,000; except that in cities of less than 25,000 the capital may be $50,000 and in cities of less than 10,000 it may be $25,000; it must be divided into shares of $100 each, all paid in in cash before the trust company can transact any business (Supp., sec. 4463).

II.—Liabilities and Duties of Stockholders and Directors.

If default is made in the payment of any liability of a trust company its stockholders are individually liable for the debts of the company then existing, but no stockholder is liable in excess of the par value of the shares held by him at the time of the default (Supp., sec. 4463*n*).

There must be from seven to thirty directors, each the holder of at least ten shares of stock (Supp., sec. 4463*c*).

III.—Supervision.

The duties imposed upon the secretary of state by the sections in the supplement dealing with inspection and supervision of trust companies are by chapter 225 of 1907 transferred to the state examiner (1907, chap. 225, 50). When it appears to the examiner from a report that the affairs of a trust company are in an unsound condition because of illegal or unsafe investments, or that its liabilities exceed its assets, or that it is transacting business in violation of law, or that it is inexpedient for the company to continue business, then the attorney-general

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being notified by the examiner institutes whatever proceedings the case requires; if from an examination the examiner concludes that the trust company is in an unsound condition he may take possession of the trust company's property pending the proceedings (Supp., sec. 4463*k*). If a trust company refuses to submit its affairs to examination, the attorney-general, notified by the examiner, may proceed against the company; if it appears to the examiner that any trust company has violated the law, or is conducting its business unsafely, he orders a discontinuance of the illegal and unsafe practices. If the trust company fails to comply with his order, the examiner, through the attorney-general, proceeds against the trust company as against an insolvent corporation (Supp., sec. 4463*l*).

REPORTS.

Every trust company makes to the examiner not less than two reports each year, according to the form he prescribes, showing resources and liabilities at the close of business on a past day he specifies. The report must be transmitted to him within twenty days after receipt of his request, and an abstract must be published in a local newspaper. The examiner may call for special reports whenever in his judgment they are necessary (Supp., sec. 4463*e*). Trust companies which receive deposits of money perhaps bring themselves within the terms of the act requiring reports of deposits that have not been dealt with for ten years. See Banks, III, and Savings banks, III (1905, chap. 129, 1). If trust companies are within the term "state banking corporation" they may be depositaries of state funds and must report as such (1907, chap. 37, 1 and 6).

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EXAMINATIONS.

There is a preliminary examination to make sure the requisite capital has been paid in in cash, etc. (Supp., sec. 4463*a*). Every trust company is examined by the examiner or a subordinate whenever the examiner thinks it expedient, or at the request of the company (Supp., sec. 4463*i*).

V.—DISCOUNT AND LOAN RESTRICTIONS.

No trust company may allow any officer, stockholder, or employee to become indebted to the company in any way out of its trust funds (Supp., sec. 4463*d*). No trust company may loan on the security of shares of its own stock unless the security is necessary to prevent loss upon a previous debt in which case the stock must be disposed of within a year (Supp., sec. 4463*g*).

VI.—INVESTMENTS.

Among trust company powers is that to hold real estate necessary and convenient in business, real estate which the purposes of the corporation may require, or which it acquires in satisfaction of debts under sales, judgments, or mortgages, or in settlement of debts due it; also the power to deal in stocks, bonds, mortgages, and other securities (1907, chap. 126). No trust company may purchase its own shares unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be disposed of within a year (Supp., sec. 4463*g*).

X.—UNAUTHORIZED TRUST COMPANY BUSINESS.

No corporation may be organized for the purpose of carrying on a trust company business except under chapter 176 of 1903; and no company organized under

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any other act may use the word "trust" as part of its name (Supp., sec. 4463).

XI.—PENALTIES.

The officer, director, etc., of a trust company who is implicated in a loan out of trust funds to an officer, stockholder, or employee is guilty of a felony (Supp., sec. 4463*d*). The director, officer, etc., who makes a false statement or entry, etc., to deceive an examiner, or reports falsely, is guilty of a misdemeanor (Supp., sec. 4463*f*). Every trust company which fails to make a report is subject to a penalty of $100 a day during the delay (Supp., sec. 4463*e*).

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WEST VIRGINIA.

Chapter 54 of the West Virginia Code, 1906, deals with "the incorporation of joint stock companies." Chapter 54B deals with "title, trust, fidelity, surety, guaranty, bonding, and insurance companies." Chapter 54 has been amended by chapter 79 of the acts of 1907 and by chapter 30 of the acts of 1908; in the acts of 1909 there is no legislation affecting the matters covered by the digest. The citations in the digest are usually to chapter 54, in which cases the numbers, without prefix, represent the sections of chapter 54, according to its rather complicated scheme of numbering; citations to chapter 54B are by sections of the chapter, prefixed by "chap. 54B;" citations to the Code merely, not by chapters, are by sections in the Code, prefixed by "Code." Amendments are treated as though incorporated in the chapters themselves.

The sections in chapter 54B deal only with trust companies. Certain of the sections in chapter 54 deal only with savings banks. It is difficult to determine which of the remaining sections from chapter 54 apply not merely to banks, but to banks, savings banks, and trust companies. Certain sections, indicated in the digest by following their language, are made applicable to all banks organized under chapter 54, including, therefore, savings

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banks. Such sections may well apply also to trust companies, for 78, V, of chapter 54, makes savings banks and trust companies doing a banking business, all subject to chapter 54. Moreover, 79, VI, of chapter 54, as amended, provides that the words "bank" or "banking company" in this act shall be construed to include any bank, banker, banking company, or trust company; but the difficulty here is in determining what "this act" means, for it may refer to chapter 54, or may more exactly refer simply to the particular act in which it stands—namely, chapter 79 of 1907, which amends only certain sections of chapter 54. Moreover, chapter 54B provides that trust companies are to be subject, as to their banking business, to chapter 54. The obvious intention of the legislature is to extend the application of the provisions given below under "Banks" to include so far as they properly can, savings banks and trust companies. The digest gives under "Savings banks" and "Trust companies," therefore, only the few special provisions. Most of the regulations under "Banks" must be taken to apply to all three; the language of the sections has been followed so far as possible to show the extent of their application.

BANKS.

I.—Terms of Incorporation.

The capital stock of every banking company formed under the provisions of chapter 54 must be not less than $25,000, nor more than $500,000, divided into shares of $100 each (77). At least 50 per cent of the capital of every banking institution organized under the chapter must be

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paid in before it begins business. The remainder must be paid in installments of at least 10 per cent each, 10 per cent of this remainder being paid each succeeding three months after business is begun (78, II).

The directors of any bank may quarterly or semiannually declare dividends out of net profits, but one-tenth of net profits must be carried to surplus until the fund amounts to 20 per cent of the capital (79, II). No capital may ever be withdrawn either as dividends or otherwise (79, III). If the capital becomes impaired it must be restored within three months by assessment (79, IV). The commissioner makes preliminary examination before banks authorized under chapter 54 begin business (81, IX).

II.—Liabilities and Duties of Stockholders and Directors.

The stockholders of any bank organized under chapter 54 (or indeed under any law of West Virginia, according to Article XI, section 6, of the constitution) are personally liable to creditors, over and above the amount of their stock, to an amount equal to the shares they hold, for all liabilities accruing while they are stockholders (78, III).

Every director of a bank subject to the provisions of chapter 54 must own at least five shares of the bank's stock (78, IV).

III.—Supervision.

The official in charge of banking is the commissioner of banking. His term of office is four years. He must be a competent person, a citizen of the State, experienced and skilled in the science of bookkeeping and banking, and he must have had at least two years' experience as a cashier or an assistant cashier of a bank, or have served at least two years in the banking or accounting departments of the State; he must not be interested in any bank or corpora-

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tion subject to his supervision (81, I and II). His salary is $2,500 a year (81, XI). He must not accept extra compensation from institutions examined (81, XIII). The commissioner, after making a preliminary examination, may withhold his certificate if he has reason to suppose that the organization is not for legal purposes (81, IX). If, upon making an examination of a bank or other institution, the commissioner discovers that the laws of the State are not being fully observed, or that irregularities are being practiced, he calls the attention of the officers and directors and demands correction. He requires, besides, monthly statements from the officers covering the points in controversy until the irregularities have been corrected (81, VI). If the institution in question refuses for ninety days to make a special report called for or if the commissioner finds the institution insolvent, or if it refuses to correct violations of law to which he has called the officers' attention, the commissioner has authority to take charge of the institution, report the irregularities to the governor, and with the consent of the governor to appoint a receiver (81, VII). Savings banks, cooperative banking associations, trust companies, etc., may be proceeded against for a receiver, if the commissioner finds that they are being improperly conducted (81, XIV). The "supervisor" must approve of reserve depositaries that are outside the State (80).

REPORTS.

All banks, bankers, banking companies, and trust companies must keep a list of the names and residences of the stockholders and the number of shares held by each, a copy of which must be sent every year to the commissioner (79, VI). Every bank operating under chapter 54 makes not less than four reports a year to the commissioner, corresponding, if possible, to the times for reports from national

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banks. The reports exhibit in detail the resources and liabilities of the bank on a past day specified by the commissioner. They are transmitted to him within five days after his request and are published in the local newspaper (81, VIII). The commissioner may call for special reports when he has good reason to think that a bank or other institution is not properly conducted (81, VI). When required by the legislature, all banking corporations must report in detail their condition (81*a*, XXXIX).

The commissioner submits annually to the governor his complete report of the work done by his department, showing total resources and liabilities of all the banks subject to his supervision, increase or decrease during the year, failures, and his own recommendations (81, XII).

(For report required for purposes of taxation, see Code, sec. 739*j*, and acts of 1907, p. 372; and for reports required from institutions acting as depositaries of state funds, see Code, sec. 543.)

EXAMINATIONS.

The commissioner makes a personal examination of the affairs of each bank authorized by chapter 54, preliminary to its beginning business, to ascertain whether 50 per cent of the capital has been paid in, and other preliminaries complied with (81, IX). At least once a year the commissioner or his assistant makes a personal, thorough examination of the condition of banks and other institutions subject to the commissioner's supervision; ascertains such questions as whether the books are properly kept; what are the assets and liabilities of each institution; and whether the laws are being observed (81, IV). Special examinations may be made when the commissioner has good reason to believe that an institution is not being properly conducted (81, VI). Every banking corpora-

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tion must allow examination by the legislature, or their agents, whenever required (81*a*, XXXIX).

IV.—Reserve Requirements.

All banks operating under the provisions of chapter 54 must keep a reserve in lawful money of the United States equal to 15 per cent of demand deposits; three-fifths of the 15 per cent may, instead of being in lawful money, consist of balances payable on demand from banks doing business in West Virginia, or such solvent banking institutions outside the State as may be approved by the supervisor (80).

V.—Discount and Loan Restrictions.

The total liabilities to any bank or trust company of any person, company, or firm for money borrowed, including in company or firm liabilities, those of the members, must never exceed 20 per cent of the capital and surplus, but the discount of commercial paper is not considered as money borrowed. Corporations for this purpose do not include municipal corporations (79, I).

No bank is permittted to loan on the security of its shares to an amount in excess of 50 per cent of its capital, "nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss" on a previous debt; stock so acquired must be disposed of within six months (79).

VI.—Investments.

No bank may purchase shares of its own stock unless it is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months (79).

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VII.—Overdrafts.

The total amount of overdrafts in any banking institution must not exceed 5 per cent of the deposits (80*a*). The report of the bank commissioner, 1907, includes this provision in the statement of the state banking statute; it must therefore be considered as probably not repealed by chapter 79 of 1907, although that act, in reenacting 80, omits 80*a*.

X.—Unauthorized Banking.

It is unlawful for any individuals doing business in the State to use the terms "bank," "banking company," or "trust company" until they have become incorporated and complied with the statutes governing banks and trust companies. The use of these words is a misdemeanor, punishable by a fine of from $500 to $1,000, or six months' imprisonment, or both (78). Limited partnerships may not be formed for banking purposes (Code, sec. 3456).

XI.—Penalties.

The officers of a bank who receive deposits before authorized by the commissoner, are guilty of a misdemeanor, punishable by a fine of not less than $500, and, at the discretion of the court, from three to six months' imprisonment. Officers who refuse to furnish the commissioner with information for examinations, or who fail to perform other duties required by "this act"—that is, chapter 79 of 1907, which amends certain sections in 54—are guilty of a misdemeanor, punishable by a fine of from $100 to $500, and, at the discretion of the court, imprisonment of from three months to one year (81, V). False or omitted entries in books are the subject of section 4260 of the Code.

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Chapter 79 of 1907 provides that any person, bank, or association violating the provisions of "this act" is, in addition to the other penalties provided in it, guilty of a misdemeanor, punishable by a fine of from $25 to $200 (78, VI).

SAVINGS BANKS.

I.—Terms of Incorporation.

Savings banks are made subject to the provisions of chapter 54 by section 78, V. It seems, therefore, that all the provisions of the West Virginia law so far stated, apply, unless it is specifically provided otherwise, to savings banks.

The statutory provisions for savings banks apparently contemplate corporations without capital stock (81*a*, I). The secretary of state must be satisfied of the responsibility and fitness of the incorporators (81*a*, III).

The income or dividends of the savings bank are divided among depositors every six months; these dividends must not exceed 2½ per cent on sums that have been on deposit for six months preceding, or 1¼ per cent on sums that have been on deposit for three months preceding. No dividends are paid on deposits of less than three months standing, and savings banks may provide that no dividends be paid on sums less than $3 or on fractions of a dollar (81*a*, XXIV). If, at the end of a dividend period, the net profits for the six months, above the sum required to be added to surplus, do not amount to 1 per cent of the deposits, no dividend is declared (81*a*, XXV). Every three years, if the net profits have accumulated over surplus to an amount equal to 1 per cent of the deposits which have been in the bank for the preceding year, this excess may be divided among depositors whose

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deposits have been in the bank for at least one year preceding, in certain proportions (81*a*, XXVI).

Every savings bank when it declares a dividend reserves as a surplus or "guaranty fund" from the net profits for the preceding six months not less than one-eighth nor more than one-fourth of 1 per cent of the whole amount of deposits until this fund amounts to 5 per cent of all deposits (81*a*, XXIII).

II.—Liabilities and Duties of Members and Directors.

Incorporators of savings banks must be citizens of West Virginia, and at least three-fourths must reside in the county (81*a*, I). Upon removal from the State membership is discontinued (81*a*, XXXIII).

The incorporators, subject to the approval of a local court, choose fifteen trustees (81*a*, V). The trustees hold regular meetings at least once every three months to receive reports of officers, etc. (81*a*, VIII). Trustees who fail to attend meetings for six months may at the discretion of the board be considered to have vacated their positions (81*a*, IX), and a local court may remove a trustee (81*a*, X). Trustees do not receive compensation for their services merely as trustees (81*a*, XII). They examine the profits before declaring dividends (81*a*, XXVII) and by a committee of not less than three of their number they thoroughly examine the affairs of their savings bank twice a year, reporting and publishing a statement (81*a*, XXIX).

III.—Supervision.

Savings banks are made subject to the supervision, examination, and control of the commissioner of banking (78, V). (See III, under Banks.) The secretary of state passes upon the responsibility, good character, and gen-

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eral fitness of the incorporators of a savings bank (81*a*, III). There must also be certification of their responsibility and fitness from a local judge (81*a*, I). The commissioner may proceed for a receiver against a savings bank as against a bank (81, XIV).

REPORTS.

Savings banks must report four times a year, like other banks. These reports are provided for in the case of every bank operating under chapter 54 (81, VIII), and in the act of 1907, providing for these reports, it is enacted that bank in that act is to be taken to include any bank, banker, banking company, or trust company (79, VI). There is a provision requiring trustees to examine their savings bank twice a year and publish the result (81*a*, XXIX).

Once a year savings banks publish a complete list of unclaimed deposits of $5 or over that have not been dealt with by the depositor for ten years (81*a*, XXXIV).

EXAMINATIONS.

These are yearly, as in the case of other banks (81, IV and 79, VI). Moreover, the trustees of every savings bank by a committee of three of them examine the affairs of the bank in January and July of each year and publish their statement in a local newspaper at least twice within ten days from their examination (81*a*, XXIX). Also, a local court has authority on the application "of five or more officers, trustees, or depositors of such corporation, and such depositors representing deposits aggregating at least" $2,000, to appoint two persons to examine the business of the savings bank. The results of this examination are reported to the court, which thereupon has authority also to remove trustees or officers guilty of misconduct, and to take further measures (81*a*, XXX).

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V.—Discount and Loan Restrictions.

An investment committee of the trustees passes upon applications for loans (81*a*, XXI). No trustee or employee may borrow any of the funds or deposits of the savings bank or become surety for any loan by the savings bank (81*a*, XIII).

See also VI, below.

VI.—Investments.

Savings banks may only invest deposits as follows: First, in first mortgages on real estate in West Virginia or an adjoining State, situated not more than 50 miles from the bank, to an amount not exceeding 60 per cent of the value of the real estate; two trustees must pass upon the real estate security. Second, securities of the United States, or of any State, or of any municipality in West Virginia, or the notes of any citizen of West Virginia, secured by a pledge of these securities, at no more than 80 per cent of the market value and not exceeding the par value. Third, notes of a West Virginia citizen with a pledge of the stock of any banking association incorporated under West Virginia or United States authority, at no more than 80 per cent of the market value and not exceeding the par value. Savings banks must not hold as security more than one-quarter of the capital stock of any banking association, however. They may deposit not exceeding 20 per cent of their deposits on call in the banking associations named, and may take interest on these deposits. Fourth, loans upon personal notes of the depositors not exceeding the amount of the deposit of the borrower, and in this sort of loan the deposit and book are pledged. Fifth, if investment can not be conveniently made in the above modes, then not more than one-third of the deposits may be

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invested in personal securities payable within a year, with two sureties, if the principal and sureties are all citizens in and residents of the State. Sixth, 15 per cent of the deposits, but not exceeding $100,000 may be put into a suitable building for the bank's business, parts of which may be rented. Seventh, real estate, stocks, bonds, and securities may be taken in payment of debts already owing, or the savings bank may purchase such property, if necessary, to secure or get payment for a previous debt. Real estate so obtained must be sold within five years except in extraordinary cases (81*a*, XVII). Investments must be made as soon as practicable, but to meet current expenses an available fund of not more than 10 per cent of the deposits may be kept, which may be invested only in such loans as are provided for in second, third, fourth, fifth, and seventh of the above (81*a*, XVIII). Temporary deposits may be made in banks designated by the trustees (81*a*, XIX).

X.—Unauthorized Banking.

See this title under Banks.

XI.—Penalties.

The special penalties for savings-bank offenses are as follows: The trustee or employee who invests in unauthorized securities is guilty of a misdemeanor punishable by not less than $100 fine and not less than one year's imprisonment (81*a*, XXXI). The trustee who omits for six months to attend meetings of the board loses his position (81*a*, IX).

Savings banks are subject to the various penalties in the act of 1907, including the additional fine of $25 to $200 (78, VI).

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TRUST COMPANIES.

I.—TERMS OF INCORPORATION.

Trust companies are made subject to the provisions of chapter 54 by 78, V. Also, according to chapter 54B, section 1, they may engage in a general banking business, but if they do they are subject to all the provisions of chapter 54, except that it is provided in chapter 54B, section 1, that nothing shall limit the maximum amount of paid-up capital which a trust company doing a banking business may employ. A trust company must have a paid-up capital of at least $100,000 (chap. 54B, 6).

III.—SUPERVISION.

See III, under Banks.

If a trust company does business without filing a certificate according to provisions of chapter 54B, the auditor publishes in a local newspaper an advertisement of the fact that the company is not entitled to do business (chap. 54B, 6). REPORTS and EXAMINATIONS are the same for trust companies as for banks. It is specifically provided that the commissioner must make a thorough examination annually, or if necesssary oftener, and that if improperly conducted, trust companies may be proceeded against for a receivership, as banks may be (79, VI; chap. 54B, 8; and 81, XIV).

V.—DISCOUNT AND LOAN RESTRICTIONS.

Trust companies are specifically made subject to the limitation on loans to individuals in 79, I; see V under Banks.

VI.—INVESTMENTS.

Trust companies must invest trust funds separately from the assets of the company (chap. 54B, 4).

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VII.—Overdrafts.

See VII under Banks.

X.—Unauthorized Banking.

See this heading under Banks; and see also 78, V*c*, where it is provided that no foreign trust company may do business in the State without complying with certain preliminary requirements before the commissioner of banking; having done so is a misdemeanor punishable by a fine of not less than $500 nor more than $1,000 (78, V*c*).

XI.—Penalties.

The only special trust company penalty is a fine of not less than $500 for the misdemeanor of beginning business without a certificate (chap. 54B, 6). Trust companies are subject to the general penalties of chapter 54 and to the added penalty in 78, VI—see Banks, XI.

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WISCONSIN.

In the Wisconsin Statutes of 1898, chapter 94 dealt with banks and banking. In 1902, the constitution of the State (Art. XI, sec. 4) was amended to allow the legislature to enact a general banking law by a two-thirds vote. Bank laws were accordingly enacted in 1903 (page 1031 in the supplement to the Wisconsin statutes, 1906) to supersede the old chapter 94, although the 1903 legislation did no more than repeal conflicting laws. Inasmuch, however, as both the supplement to the statutes and the reprint of banking laws issued in 1909 by the state authorities disregard chapter 94 in the old statutes, it is not considered in the digest. Since the supplement was issued, various amendatory acts have been passed by the 1907 and 1909 legislatures. The reprint above referred to contains all banking statutes through 1909 and has been relied upon for the digest; it shows the statutes as they now stand to consist of a chapter divided into five subchapters, entitled, respectively, "Banking department," "State banks," "Mutual savings banks," "Trust company banks," and "Miscellaneous." Despite this division into subchapters, however, it must be borne in mind that the savings bank and trust company sections are, as respects these two sorts of companies, supplementary merely to the sections dealing with state banks, for savings banks are made subject to "all the provisions of this

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act relating to reports, examinations, liquidations, powers, liabilities, and forfeitures so far as the same may be applicable, except as herein provided" (2024–76), and trust companies are to be organized, according to the terms of the late statute, under the provisions of the subchapter on state banks, and are subject to all of the provisions of that subchapter except as otherwise provided in the trust company subchapter (2024–77i).

The references in parenthesis, where they are numbers merely, are to sections in the supplement to the Wisconsin Statutes, 1906. Statutes of 1907 and 1909 are cited by year, chapter, and section.

BANKS.

I.—Terms of Incorporation.

State banks may receive savings deposits (2024–9).

The capital of a state bank must be not less than $10,000 in cities, towns, or villages of less than 1,500; not less than $20,000 in cities, towns, or villages of from 1,500 to 3,500; not less than $25,000 in cities or villages of from 3,500 to 5,000; not less than $30,000 in cities of from 5,000 to 10,000; not less than $50,000 in cities of more than 10,000; except that in any town which does not have within its limits a city or village with a population of 1,500 or more the capital need not exceed $10,000. There is a further minor exception for suburban banks. Incorporators must be residents of Wisconsin (2024–6). The capital must be divided into $100 shares (2024–7, amd. by 1909, chap. 135), and must be fully paid in in cash (2024–12).

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Dividends may be declared from net profits, but before the declaration not less than one-tenth of net profits for the preceding dividend period must be carried to surplus until the surplus amounts to 20 per cent of the capital (2024–40).

Limitations on power of banks to borrow are given under V *infra.*

II.—Liabilities and Duties of Stockholders and Directors.

Stockholders of banks are individually liable to creditors to the amount of their stock at par in addition to the amount invested in the stock. This liability continues for six months after transfer, as to the affairs of the bank at or prior to the transfer (2024–44). Stockholders are allowed to make themselves unlimitedly liable by filing a declaration to that effect with the commissioner of banking (2024–51 and 2024–52). If a dividend is declared which impairs the capital, every stockholder who receives it is liable to restore the full amount received unless the capital is made good (2024–41).

There must be not fewer than three directors, all stockholders, and a majority of them residents of Wisconsin (2024–14). If they pay dividends before the capital is fully paid in, or while the corporation is insolvent, or in danger of insolvency, or when they have reason to believe that there are not sufficient net profits, then they are liable to creditors for double the amount of the dividends declared (2024–41). If they allow a violation of law by employees of the bank, they are liable for the loss sustained by the bank (2024–43). A committee of directors or stockholders examine every six months, with a view particularly to ascertaining what assets are of doubtful value (2024–15).

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III. Supervision.

There is a state banking department under the control of the commissioner of banking (2015). The commissioner's term is five years. He and his deputy must have had at least three years' practical experience in banking business, or served that time in a state banking department. The commissioner's salary is $4,000 a year (2016, amd. by 1909, chap. 414). The commissioner and his subordinates must not examine banks in which they are interested, nor banks located in the same village, city, or county with a bank in which they are interested. They must keep secret information had on examination, except as public duty requires it to be disclosed (2020). The commissioner may withhold his certificate of authority from a corporation which he thinks organized not for legitimate purposes (2024–12). The commissioner approves of reserve banks (2024–30). The commissioner may require a bank to pay back money it has borrowed merely to reloan (2024–36).

The commissioner may require any bank to keep its books and accounts in a convenient mode for him to examine them (2024–1). He may require banks that are located too close together to separate (2024–2). He approves changes in amount of capital (2024–18). He has authority over consolidations, etc. (2024–25, 2024–26, and 2024–27).

When satisfied that the capital of a bank is impaired, the commissioner requires the bank to make good the deficiency within sixty days. The directors may then assess the stockholders for this purpose (2021, amd. by 1909, chap. 396, sec. 3). While a bank is under notice to make good an impairment, and until an impairment is made good, no transfer of stock may be made. In any case transfers of stock must be certified to the commissioner (2024–45).

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Whenever it appears to the commissioner of banking that "any bank or banking corporation to which this chapter is applicable" has violated its charter or any statute, or is conducting its business in an unsafe or unauthorized manner; whenever the capital of such a corporation is impaired; whenever such a corporation refuses to submit to examination; whenever it suspends payment of its obligations; whenever, from an examination or report, the commissioner has reason to conclude that such a corporation is in an unsafe condition to transact business or that it is unsafe or inexpedient for it to continue business; and whenever such a corporation fails to observe an order of the commissioner, referred to above, to make good within sixty days an impairment of capital, the commissioner may take possession of the corporation and retain possession until it resumes business or is finally liquidated. This section goes on to provide an elaborate set of rules for the liquidation of such a delinquent bank's assets by the commissioner or by subordinates appointed by him (2022, amd. by 1909, chap. 396). Whenever an officer of a bank refuses to submit the affairs of a bank to examination, the commissioner may inform the attorney general, who must institute an action to dissolve the corporation (2024–23, amd. by 1909, chap. 396, 3). When reserves fall below the required amount, the commissioner notifies the bank to make good the reserve; if it fails for thirty days to do so, receivership proceedings may be instituted. Note that although the 1909 legislation appears intended to provide completely for liquidation by the banking department instead of by receivers, this section remains unchanged (2024–31). If directors permit a violation of law, and after warning from the commissioner do not make good the loss sustained, he proceeds for the forfeiture of the bank's charter and its dissolution (2024–43).

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A bank may put itself into the hands of a commissioner voluntarily (2024–29).

REPORTS.

Every bank makes to the commissioner not less than five reports each year at such times as he requires and in such form as he prescribes. The reports show resources and liabilities on a past day specified by the commissioner. They must be transmitted to him within five days after receipt of his request. They are published in a local newspaper. At least once a year each bank reports to the commissioner on call by him a list of stockholders, with their residences and the amount of stock they hold. The commissioner may call for special reports (2024–20). The examining committee of directors or stockholders report their semiannual examinations to the commissioner (2024–15). Receivers make reports in the manner required of banks at least once a year (2023). There is a preliminary examination to ascertain whether the capital has been fully paid in in cash and other requirements complied with (2024–12). Certain special reports may be required from state depositaries (160*b*); for their regular report see laws of 1907 (160*f*). For statements required for taxation see 1051.

In December of each year the commissioner makes and publishes a report to the governor, showing the condition of all banks at their last report, with an abstract of total capital, resources and liabilities, lawful money on hand, banks closed during the year, banks organized during the year, lists of stockholders, directors, and officers, and items of the administration of the department (2024–5). In this annual report to the governor the commissioner includes names of banking corporations liquidated under the 1909 statute, with the sums of the unclaimed deposits

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or dividends at the end of the liquidations (2022, amd. by 1909, chap. 396).

EXAMINATIONS.

These are at least yearly, and look to an investigation of the condition of the bank and its compliance with law. There must be an examination whenever the board of directors of any bank request it (2018). Every six months an examining committee of directors or stockholders make an examination and report to the board of directors with a view particularly to ascertaining doubtful assets. This report is transmitted to the commissioner (2024–15). Certain examinations may be required in the case of state depositaries (160*b*).

IV.—Reserve Requirements.

Every bank must keep on hand at least 15 per cent of its deposits, of which reserve a portion determined by the directors may be on deposit in banks approved by the commissioner of banking as reserve banks. Reserve banks are subject to a stricter rule, requiring them to keep at least 25 per cent of their deposits in money or on deposit in approved reserve banks. Cash items are not considered as part of reserve (2024–30). When the reserve of a bank falls below the required amount, it must not increase its loans or discounts except by buying sight exchange (2024–31).

V.—Discount and Loan Restrictions.

The total liabilities of any person, firm, or company for money borrowed, including in firm liabilities those of the members, must not exceed 30 per cent of the capital and surplus of the lending bank. Discount of bills of exchange and commercial paper generally is not considered as money borrowed, however, and by a two-thirds vote of the direct-

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ors the liabilities of a person, firm, or company may be increased up to 50 per cent of the capital and surplus of the lending bank on approved security (2024–32).

No bank may loan to its directors, officers, or employees without an indorser or security, unless the loan has been authorized both as to amount and security by the directors (2024–34).

No bank may lend an amount exceeding 50 per cent of capital, surplus, and deposits on any form of real-estate security except when authorized as to amount, security, and location in Wisconsin and adjoining States by a two-thirds vote of directors (2024–35).

Banks must not pledge assets of the bank as collateral, except that they may borrow money for temporary purposes and may pledge assets not worth more than 50 per cent of the amount borrowed. If it appears, however, that a bank is borrowing habitually to reloan, the commissioner may require the bank to pay back the sums borrowed. These provisions do not forbid a bank from rediscounting and indorsing its negotiable notes. Banks may not issue certificates of deposit in order to borrow money, nor may they make partial payments on certificates of deposit (2024–36).

VI.—Investments.

A bank may hold only such real estate as is necessary for the convenient transaction of its business, including apartments rented (this investment not to exceed 25 per cent of the capital and surplus); such as is conveyed in satisfaction of previous debts; and such as is bought at judicial sales under securities held by the buyer, provided the bank does not bid more than a necessary amount to satisfy debts and cost. Except its banking house, etc., real estate must not be held for longer than five years, but the provision that if no extension is granted this real

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estate must be sold within a year thereafter makes the rule practically one for six years (2024–19).

No bank may hold its own stock unless the purchase is necessary to prevent loss on a previous debt, in which case the stock must be sold within six months, if it can be disposed of for the amount of the claim of the bank, and in any case it must be sold at the best price obtainable within a year, or else canceled (2024–33).

VII.—Overdrafts.

Banks are not allowed to carry an overdraft of more than ninety days' standing as an asset (2024–36).

VIII.—Branches.

Branches are forbidden (2024–7, amd. by 1909, chap. 135).

IX.—Occupation of the Same Building.

If two banks do business in the same building, on the same floor and in such close proximity as to interfere with the proper examination of either bank, the commissioner may require one of them to move (2024–2).

X.—Unauthorized Banking.

No person, firm, or corporation not subject to supervision by the commissioner and not required to make reports to him is allowed to use a sign indicating that the office is a bank, nor to use letter heads, etc., indicating that the business is that of a bank. The use of "bank," "savings bank," etc., is forbidden, except by institutions authorized under the statute. Violation of these provisions is a misdemeanor by the person who, individually or for a corporation or firm, does the forbidden act, punishable by a fine of from $300 to $1,000 or imprison-

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ment of from sixty days to one year, or both (2024–50). A late statute provides the same penalties for persons, firms, or corporations that do a banking business without being regularly organized as a national, state, savings, or trust company bank (2024–78m, amd. by 1909, chap. 285).

XI.—Penalties.

If the commissioner of banking, or one of his subordinates, discloses any information obtained in examinations, except as required in the course of duty, he forfeits his office and is subject to a fine of $100 to $1,000, imprisonment of from six months to two years, or both (2020).

If a bank refuses to keep such books of account as the commissioner prescribes, it is subject to a penalty of $10 a day (2024–1). If an officer of a bank refuses to allow a proper person to inspect the stock book, he forfeits $50 (2024–16). A bank that fails to report forfeits at the discretion of the commissioner $10 a day during the delay (2024–21). Any director or employee who willfully makes false statements, entries, etc., in order to deceive examiners is guilty of a felony punishable by a fine of not less than $1,000 nor more than $5,000, or by imprisonment of not less than one nor more than ten years, or by both (2024–22). Embezzlement, false entries, etc., by directors, officers, and employees is punishable by not more than twenty years' imprisonment (2024–42). Receiving deposits with knowledge of a bank's insolvency entails imprisonment of from one to ten years, or fine of not more than $10,000 on the officer, director, etc., offending (Statutes, revision of 1898, 4541).

Receivers of insolvent banks who violate any of the provisions of the statute relative to reports or examinations are punishable as officers or employees of banks are (2023).

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SAVINGS BANKS.

I.—Terms of Incorporation.

The statute contemplates "mutual savings banks" without capital stock. It provides that these savings banks shall be subject to all the provisions of the banking act relating to reports, examinations, liquidations, powers, liabilities, and forfeitures, so far as they may be applicable (2024–76).

Not less than twenty nor more than fifty persons, three-fourths of whom must reside in the county where the bank is to be located, may organize a mutual savings bank (2024–56). Citizens of the county or any adjoining county may later be elected. Failure to attend meetings for two years forfeits membership (2024–57).

After deducting expenses and the reservation for guaranty fund, the profits of each mutual savings bank are semiannually divided among the depositors. The amount reserved for guaranty fund must be a sum not less than one-fourth of 1 per cent, nor more than 1 per cent, of the whole amount of deposits; this is taken out of net profits for the past six months until the guaranty fund amounts to 10 per cent of all deposits (2024–71). Dividends may be paid on deposits of less than six months' standing, except that no dividend may be paid for a fraction of a month, or a fraction of a dollar (2024–72). Every three years, if the net profits have accumulated over the guaranty fund and ordinary dividends to an amount equal to 1 per cent of the deposits that have remained in the bank for a year preceding, these net profits are divided as an extra dividend among the depositors whose deposits have been in the bank for a year (2024–73).

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II.—Liabilities and Duties of Trustees.

There must be not less than nine trustees (2024–60). They elect a committee on finance (2024–61). Not more than one officer of any savings bank may at the same time be an officer of any bank or trust company, and no stockholder of a bank may be treasurer of a savings bank (2024–62). Trustees receive no compensation from the bank (2024–64). The provision against receipt of deposits by any officer, director, etc., of a banking institution while he knows the institution is insolvent applies to savings banks, apparently (Statutes, revision of 1898, 4541).

III.—Supervision.

See Banks, III. The provisions for supervision, liquidation, REPORTS, and EXAMINATIONS apply, presumably, to savings banks, for section 2024–76 of the act of 1903 seems broad enough to make applicable to savings banks, not only the act as originally enacted but as later amended; in any case the important statute of 1909, providing for liquidation by the banking department of delinquent banks, covers savings banks by virtue of its own language.

A particular provision for savings banks is for the election each year of not less than two auditors, not officials or trustees of the corporation, to examine and make a statement of the condition of the bank, its total deposits, number of depositors, the largest amount due to one depositor, investments in real estate securities and in stocks and bonds, funds on hand, and names of members, trustees, and officers. This statement, which refers to January 1 of each year, is transmitted to the commissioner before February 1 (2024–77). The commissioner passes upon the proposal of a savings bank building to put more than $10,000 in its land and building (2024–74).

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IV.—Reserve Requirements.

Savings banks must keep on hand or on deposit in banks approved by the commissioner as reserve banks at least 5 per cent of total deposits (2024–75).

V.—Discount, Loan, and Deposit Restrictions.

No trustee of a savings bank may be a borrower or surety for a borrower of any of its funds, nor receive a compensation for procuring a loan from the bank, or for aiding in the sale of securities to the bank (2024–65). Savings banks must not loan upon an obligation on which only one person or firm is liable without additional security equivalent to the indorsement of another responsible party (2024–69). Other loan restrictions are given incidentally under VI, *infra*, because classified under investments in the statute.

The deposit in a savings bank of any one person in his own name or in the name of another in any one year must not exceed $1,000 (2024–67).

VI.—Investments.

A savings bank may hold such real estate as a bank is authorized to hold, except that it must not invest in land and building for offices a sum exceeding $10,000 without the approval of the commissioner of banking (2024–74).

A savings bank may employ not more than one-half of its deposits in making loans on personal security and in the purchase of United States bonds, or bonds of the "Northwestern States" (which are named in the statute), or of bonds of municipalities in the "Northwestern States," or of first mortgage or refunding bonds of any railroad company which has paid dividends of at least 4 per cent on its whole stock for five years. All other loans (that is to say, the investment of the other half of the deposits) must

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be secured by mortgage of unincumbered real estate in the "Northwestern States." Railroad stock must not be held. Loans must not be made upon real estate to an amount exceeding 60 per cent of its value as determined by a majority of the finance committee (2024–68).

IX.—Occupation of the Same Building.

Since savings banks are subject to all the provisions of the banking act relating to powers, liabilities, and forfeitures (2024–76), they may come within the rule that two banks doing business in the same building on the same floor and in such close proximity as to interfere with proper examination may be separated by the commissioner (2024–2).

XI.—Penalties.

Savings banks are subject to the same liabilities and forfeitures as banks (2024–76); the rules stated under XI in Banks hold good here, therefore. A trustee who borrows from a savings bank, or becomes surety for a borrower, or receives a compensation for procuring a loan, or for aiding in a sale of securities to the bank, forfeits $1,000 (2024–65). See particularly under Banks, the penalties for which the following sections were cited: 4541, 2024–1, 2024–21, 2024–22, and 2024–42.

TRUST COMPANIES.

I.—Terms of Incorporation.

Under the trust company statutes, as they stood in the supplement of 1906, trust companies were forbidden to "buy or sell bank exchange or do a banking business;" but the section so providing, 1791*g*, is, together with the rest of the trust company sections in the supplement, repealed by a 1909 statute, which provides, it seems, for banking powers

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of a qualified sort for trust companies. Under this statute a trust company "may receive time deposits and issue its notes, certificates, debentures, and other obligations therefor, payable at a future date only, not earlier than thirty days from the date of such deposit; it shall not receive deposits subject to draft, order, or check, or payable upon demand, issue bills to circulate as money, or deal in bank exchange." Deposits thus received must be kept separate in accounting, etc., from the other business of the corporation (2024–77k, added by 1909, chap. 186).

"Trust company banks" are organized under the provisions of the subchapter on state banks. The capital of a trust company must be at least $100,000 and not more than $5,000,000, except that in cities of less than 100,000 the capital may be not less than $50,000 (2024–77i, added by 1909, chap. 186).

The word "trust" must be a part of the name of every trust company bank, but the word "bank" must not be part of the name (2024–77p, added by 1909, chap. 186).

III.—Supervision.

The only especial provisions on this topic in the trust company sections are those which provide for the deposit with the state treasurer of an amount equal to at least 50 per cent of the capital, but never more than $100,000. This deposit, in cash or securities, is held by the state treasurer to secure the execution of any trust which the corporation assumes (2024–77j, added by 1909, chap. 186). The commissioner approves of depositaries of trust company reserves (2024–77l, added by 1909, chap. 186).

IV.—Reserve Requirements.

Every trust company must keep in money, or subject to call in any banking institution approved by the commis-

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sioner, a reserve fund equal to 15 per cent of the company's deposits (2024–77l, added by 1909, chap. 186).

V.—Discount of Loan Restrictions.

Among trust company powers is that to "loan money upon real estate and upon securities other than personal notes or commercial paper or obligations secured solely thereby" (2024–77k, added by 1909, chap. 186). No trust company may loan its funds to any salaried officer or employee, nor may such an officer or employee become, in any manner, indebted to the company (2024–77n, added by 1909, chap. 186).

Trust companies are exempted from the operation of two sections of the subchapter on banks (2024–77i, added by 1909, chap. 186): one section forbidding the total liabilities to any individual to exceed 30 per cent of capital and surplus, with exceptions given under Banks (2024–32); and the other forbidding any bank to loan in excess of 50 per cent of its aggregate capital, surplus, and deposits on real estate security, except upon a two-thirds vote of directors (2024–35).

VI.—Investments.

Apart from the provisions authorizing trust companies to hold various sorts of property in trust, it is provided that a trust company may "lease, purchase, hold, and convey such land as may be necessary to carry on its business, * * * as well as such real or personal estate as it may deem necessary to acquire in the enforcement or settlement of any claims or demands arising out of its business transactions" (2024–77k, added by 1909, chap. 186). The trust investments must, of course, be kept separate from the investment of the funds of the company (2024–77m, added by 1909, chap. 186).

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VII.—Overdrafts.

One of the means enumerated, by which no officer or employee of a trust company is allowed to become indebted to the company, is by "overdrafts" (2024–77n, added by 1909, chap. 186).

VIII.—Branches.

Branches are forbidden (2024–77n, added by 1909, chap. 186).

X.—Unauthorized Trust Company Business.

No person, firm, or corporation not organized under the provisions of the subchapter on trust company banks may use the word "trust" in their business or as part of their name. Violation of this rule is a misdemeanor punishable by fine of from $300 to $1,000, imprisonment for from sixty days to one year, or both (2024–77p, added by 1909, chap. 186).

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WYOMING.

The last edition of Wyoming laws is the Revised Statutes of 1899. In this volume a chapter, at page 822, is entitled "Banks, Savings associations, Loan and trust companies;" other sections on topics covered by the digest are in the chapter entitled "State examiner," at page 120. All these sections are referred to in the digest by numbers in parenthesis; amendments are referred to by the year of the session laws in which they occur, and the chapter in that volume. The session laws have been examined through 1909. The sections in the banking chapter of the Revised Statutes are often not altogether clear in their application. Where there is doubt, enough of the language is quoted to allow the reader to make his own inference; any constructions offered in the digest are based on suggestions of Mr. Harry B. Henderson, state examiner.

BANKS.

I.—Terms of Incorporation.

Persons may "form companies for the purpose of carrying on a general banking, savings bank, and loan and trust company business" (3085). Under this language the transaction by a single institution of more than one of the three sorts of business is thought permissible.

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The capital stock "of each bank and banking association organized under this chapter" must be subscribed for as full paid stock. It must be not less than $10,000 in a town or city of less than 2,000; not less than $25,000 in one of 2,000 to 4,000; not less than $50,000 in one from 4,000 to 6,000; and not less than $100,000 in one of over 6,000. Fifty per cent of the capital must be fully paid in before business is begun and the balance must be fully paid within six months from the date of beginning business (3086, amd. by 1905, chap. 78, 1). For limitations on the form of capital at beginning of business see VI, *infra*. Capital must be divided into shares of $100 each (3087). Dividends may be declared only out of net profits (3094). They may be declared semiannually on the first Monday in January and July by the directors (3095).

II.—Liabilities and Duties of Stockholders and Directors.

The shareholders of "each and every banking association, savings bank, and loan and trust company or association" are individually liable for the debts of the company to the extent of the amount of their stock at par, in addition to the sum invested in the stock (3136).

There must be from five to nine directors of "every association * * * organized to carry on the business of banking * * * under this chapter," all of whom must be citizens of the United States or have declared their intention to become citizens; a majority of them must be residents of Wyoming, and each must own at least 1 per cent of the capital stock of the company up to $200,000 and one-half of 1 per cent of its capital over $200,000. The directors collectively must own at least one-fifth of the

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stock (3090). A director "of any banking association" who is insolvent, or has made an assignment or gone into bankruptcy, vacates his place (3091). If the directors "of any banking association which shall have availed itself of any of the privileges granted by this chapter," knowingly violate or allow a violation of the chapter on banking, every director who participates in the violation is personally liable for damages which anyone suffers in consequence (3099).

III.—Supervision.

Banking reports and examinations are in charge of the state examiner, an official appointed for four years (129 and 116), an elector of Wyoming, a competent person, a skilled accountant, and not an officer, employee, etc., of any banking, moneyed, or savings institution or corporation within the State (117). He is the officer whose duties are primarily connected with the accounts, etc., of public institutions of the State (121). The examiner approves of increases or decreases in capital of banks, savings banks, and trust companies (3126).

If the directors of any banking association violate the banking chapter or allow a violation (3099), or if the association fails to meet its obligations (3100), the bank may be dissolved by proceedings in court, instituted by the attorney-general, which culminate in the appointment of a receiver (3101). Upon the suspension of "any bank" on account of insolvency, the state examiner in person or by an assistant assumes possession of the bank until the receiver is appointed (3127).

Reports.

The officials of banks, savings banks, and trust companies must make returns to the state examiner at what-

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ever times and in whatever form he prescribes (131). As often as called on by the examiner, and not less than four times a year, at the close of business on a past day, "every bank or banking association" must transmit to the examiner a report showing the following items: Capital stock paid in; balances due to banks in Wyoming and balances due to banks outside; amount due depositors; amount of all liabilities; dividends declared on the day of making the statement; bullion and lawful money of the United States; deposits, subject to sight draft, with other solvent banks; bills, bonds, notes, and other evidences of debt discounted or purchased by the bank, and the amount in suit; real and personal property held for the convenience of the bank, with amount of each; real estate taken in payment of debts; undivided profits. The report is published in a local newspaper (3095). The same reports are required of "every person or persons * * * engaged * * * in the business of banking, buying or selling exchange, receiving money on deposit subject to check" (3121–3123). "Every banking association formed pursuant to the provisions of this chapter" must file a list of stockholders annually with the examiner (3103). For reports required from depositaries of public funds see 1907, chap. 30, 5.

The state examiner makes an annual report to the governor of his various official proceedings (137). He reports to the governor any infringement of law by banking, moneyed, and savings institutions, making recommendations. The governor may publish these reports of the condition of the corporations or take such action as the emergency demands (130).

EXAMINATIONS.

The state examiner visits without prior notice each banking, savings, and other moneyed corporation of the

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State to examine thoroughly its financial condition, at least once a year; he verifies the validity and amount of its securities and assets (129). The annual examination must be "a thorough personal examination." After his examinations, he records them in a book open to the public (3102).

V.—Discount and Loan Restrictions.

The total liability "of [evidently an error for *to*] any association deriving any of its powers or privileges from this chapter" of any person, firm, or corporation for money borrowed, including in firm or corporation liabilities those of the members, must never exceed one-fifth of the paid-in and unimpaired capital; unimpaired surplus may be reckoned as capital for this purpose The discount of bills of exchange drawn against existing values and the discount of commercial paper owned by the person negotiating it are not considered money borrowed (3096, amd. by 1907, chap. 55, 1, and 1909, chap. 107, 1). The prohibition on withdrawing capital states that no bank may allow capital to be withdrawn "either in the form of dividends, loans to shareholders, or in any other manner" (3094).

"No banking association" may take as security a lien upon its own stock, and the same security must be required of shareholders as of others (3088).

"No banking association deriving any of its powers or privileges from this chapter" may be indebted to an amount exceeding its whole capital paid in and undiminished, except on account of moneys deposited with or collected by the corporation, on account of bills or drafts against money actually on deposit to its credit or due to it, on account of rediscount of paper for cash, and on account of capital and dividends (3093).

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See VI, below, for incidental restrictions on loans there mentioned.

VI.—INVESTMENTS.

"Every banking association authorized to carry on the business of banking under the provisions of this chapter" may "loan money on real and personal securities," subject to the provisions of the chapter; may hold such real estate as is necessary for the convenient transaction of its business and no more; may hold, however, real estate mortgaged to it for loans made or money due, and real estate purchased on execution to satisfy a judgment in its favor or conveyed to it in payment of a previous debt, but real estate held under mortgage or bought to secure debts must not be held for longer than five years (3092). The bank building of any "banking association," together with its other real estate, furniture, and fixtures, must not exceed 20 per cent of its capital stock. The commercial paper held by a banking association at the commencement of business must not exceed 35 per cent of capital stock, and the money on hand at the commencement of business must not be less than 40 per cent of capital stock. In case the capital of a bank is not fully paid up at the commencement of business, the valuation of its real estate, furniture, and fixtures and the amount of its commercial paper must be in the same proportion to paid in capital as it is required above to be to total capital (3125).

"No banking association" may hold its own stock or that of any other corporation, except when the purchase is necessary to prevent loss on a debt contracted previously on apparently good security; stock thus held must be disposed of at the end of six months, if it can be sold for what it cost (3008).

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X.—Unauthorized Banking.

No corporation may engage in banking of any kind, or loan or trust business, without complying with the provisions of the banking chapter. Anyone who is engaged in such illegal banking, savings banking, or loan and trust business is guilty of a misdemeanor punishable by fine of from $1,000 to $2,000 (3134). There are provisions forbidding persons engaged in banking, but not subject to the banking chapter, to use a corporate name (3104).

XI.—Penalties.

Every president, director, agent, etc., of "any banking association," who commits various frauds, including embezzlement and deception practiced on an examiner, is guilty of a felony punishable by ten years' imprisonment (5003). Publication of a false statement by one required to make it with regard to "any bank, banking company, or banking association" is punishable by not more than ten years' imprisonment (5004). If any officer, director, etc., of any bank or corporation engaged in banking or deposit business, knowing of the insolvency of the corporation, takes deposits, he is guilty of a felony, punishable by not more than ten years' imprisonment in the penitentiary, or not more than one year in the county jail, or not more than $10,000 fine, or both (5005). Any person required to make returns to the state examiner who fails to do so (133), and any person who obstructs or misleads the state examiner in the execution of his duties, is guilty of a felony, punishable by fine of from $1,000 to $5,000, imprisonment for from one to five years, or both (135). Refusing the state examiner access to papers, or obstructing examination of the affairs of moneyed, banking, and savings institutions, is a felony punishable by fine of not

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less than $1,000, imprisonment for not less than one year, or both (136). If the state examiner takes extra pay for services, or neglect of services, he is fined from $5,000 to $10,000, imprisoned from five to ten years, or suffers both penalties (139). "Any bank, savings association, or loan and trust company" incorporated under the banking chapter of the Revised Statutes must, if it exceeds the loan limit to an individual, pay a fine, for each violation, of $10 to $100 (1909, chap. 107, 2). Any person who draws a check, order, or draft when he is not entitled to do so is guilty of a felony, punishable by fine of not more than $5,000, imprisonment for not more than five years, or both (1909, chap. 143).

SAVINGS BANKS.

I.—Terms of Incorporation.

With regard to a savings bank's combining its business with other sorts of banking, it is provided that no association doing business for savings purposes may exercise any banking powers except those expressly conferred by the savings bank provisions of the banking chapter (3110, amd. by 1903, chap. 50, 3). The capital stock of savings banks must not be less than $25,000 (3086, amd. by 1905, chap. 78, 1). Fifty per cent of the stock, divided into shares of $100 each, must be paid in before business is begun, and the full amount within six months from the date of organization. The capital is held as a guarantee to depositors to make good depreciation in the funds of the bank, and must never be withdrawn except to make good such depreciation; any portion so used must be paid within ninety days (3107, amd. by 1903, chap. 50, 2).

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II.—Liabilities and Duties of Stockholders and Directors.

See Banks, II, for the section creating double liability.

Each director of a savings bank must own at least $1,000 of stock (3112, amd. by 1903, chap. 50, 5). See also Banks, II, for the provisions of 3090, with regard to number of directors, citizenship, etc.; 3090 applies to "every association * * * organized to carry on the business of banking under * * * this chapter." Sections 3091 and 3099 (see Banks, II) are thought to apply to savings banks.

No director of a savings bank may vote on a matter in which he has an individual interest. A majority vote is required to make an order, authorize the investment of any money, the sale of any of the association's property, or the appointment of any salaried officer (3108). The directors of a savings bank must meet at least once a month to receive reports of officers. Any director who omits to attend regular meetings for six months in succession may be considered as having vacated his place. The local court may remove a director for cause (3109). Savings bank directors may receive no profit till depositors have been paid 3 per cent interest (3110, amd. by 1903, chap. 50, 3). Directors are liable on their bond ($2,500, or more if the local judge requires it) individually to all depositors (3112, amd. by 1903, chap. 50, 5).

III.—Supervision.

For qualifications, etc., of the state examiner, see Banks, III. It is not wholly clear just which of the provisions relating to his control over banking corporations extend to savings banks. He approves of changes in capital stock (3126). The proceedings by the attorney-general for violation of the provisions of the banking

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chapter relate to savings banks, since they are considered within the definition "any banking association which shall have availed itself of any of the privileges granted by this chapter" (3099, 3100, and 3101); see Banks, III, for these proceedings. The provision under which the state examiner takes possession of an insolvent institution is framed to apply to "any bank" (3127).

REPORTS and EXAMINATIONS are the same as provided in the chapter for other banking associations (3114). In the chapter on the bank examiner it is provided that when he examines savings banks he must inspect the validity of the mortgages they hold and see that they are recorded, and that he must ascertain the nature and amount of discounts or other transactions foreign to the legitimate purpose of savings banks (129).

IV.—RESERVE REQUIREMENTS.

Every savings bank must hold in its own keeping or on deposit, subject to call with a national bank or with other banks, at least 10 per cent of its savings deposits (3111, amd. by 1903, chap. 50, 4).

V.—DISCOUNT AND LOAN RESTRICTIONS.

No officer of a savings bank may be borrower or surety for a borrower of any of its funds, nor may a savings bank discount paper of its cashier or clerks (3118). No savings bank may take as collateral its own stock (3111, amd. by 1903, chap. 50, 4).

The restriction on the total liabilities of any person, firm, or corporation are as given under Banks; the section applies to "any association deriving any of its powers or privileges from this chapter" (3096, amd. by 1907, chap. 55, 1, and 1909, chap. 107, 1). See Banks, V, also, for further restrictions (on indebtedness, e. g.) framed in similar terms.

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VI.—INVESTMENTS.

"Every banking association organized to carry on the business of banking under the provisions of this chapter" may, among other things, "loan money on real and personal securities" subject to the restrictions in the chapter (3092). The real estate which a savings bank may hold is regulated by the same section which was digested under Banks, VI (3113). Certain provisions given under Banks, VI, restricting holdings of stock in any corporation, and limiting holdings of real estate to 25 per cent of capital, and putting certain requirements upon investments held at the beginning of business, apply to savings banks. They are considered within the language "any banking association" (3008 and 3125).

Any savings bank may invest 80 per cent of its deposits in bonds of Wyoming or of the United States or of any municipality of Wyoming, or may loan its deposits on mortgage of unincumbered real estate or chattels worth double the loan. From the remainder of deposits temporary deposits may be made in a national bank or Wyoming state bank, but these deposits must not exceed $25,000 in any one bank; or the whole or any part of the remainder may be held to meet current payments, on deposit or in other form as the directors vote (3111, amd. by 1903, chap. 50, 4). Capital must be invested as other funds are (3107, amd. by 1903, chap. 50, 2).

X.—UNAUTHORIZED BANKING.

It is unlawful for any "persons, copartnership, or association" to transact a savings bank business or to assume the name of a savings bank unless "such person, company, or association" has been incorporated under the banking chapter, and "any person or association of persons" who assume the name of a savings bank or loan

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and trust company, or hold themselves out to the public as a savings bank without organization under the chapter, are guilty of a misdemeanor punishable by fine of from $100 to $500 (3120). The section stated under Banks must also be here considered. It provides that no corporation may engage in banking of any kind, or carry on a loan or trust company business, without complying with the provisions of the banking chapter, and that any person interested in such a corporation is guilty of a misdemeanor punishable by fine of from $1,000 to $2,000 for every offense (3134). See also the prohibition against use of a corporate name by persons engaged in banking and not subject to the banking chapter (3104).

XI.—Penalties.

See Banks, XI; enough of the language of each section is there given for the reader to make his own inference of its application.

TRUST COMPANIES.

I.—Terms of Incorporation.

Trust companies are clearly given banking powers; it is provided that any loan and trust company may "receive deposits and pay out the same either upon order or check" (3130, amd. by 1903, chap. 50, 8).

The capital stock of a loan and trust company must be subscribed for as full-paid stock; 50 per cent of it must be paid in before the association can begin business, and the rest within six months. The provisions for amounts of capital in cities of various sizes are as given under Banks, I (3086, amd. by 1905, chap. 78, 1). Shares must be of $100 each (3129, amd. by 1903, chap. 50, 7).

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II.—Liabilities and Duties of Stockholders and Directors.

See Banks, II, for the section creating double liability; loan and trust companies are expressly included within it (3136).

See Banks, II, for provisions concerning directors; enough of the language is quoted to show all that the statutes do with regard to the application of the particular sections; it is believed that 3090, 3091, and 3099 all apply to trust companies.

III.—Supervision.

For qualifications and general duties of state examiner see Banks, III. He must approve of increases and decreases in the capital of trust companies (3126). He approves of national and state banks as depositaries of trust-company reserves (3132, amd. by 1903, chap. 50, 9). The provisions given under Banks for proceedings for a receiver by the attorney-general after violation of the banking chapter are thought to apply to trust companies, though the language is "any banking association which shall have availed itself of any of the privileges granted by this chapter" (3099, 3100, and 3101). The provision allowing the examiner to take charge of a bank in insolvency, pending receivership proceedings, applies only to "any bank" (3127).

Reports.

The section of the chapter on the state examiner which requires officers and employees to make returns to the state examiner in such form and at such times as he prescribes includes all "moneyed * * * institutions" (131), but the section in which quarterly reports are

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required and their details are explained applies only to "every bank or banking association which shall commence the business of banking as provided in this chapter" (3095), and that requiring a list of shareholders to be forwarded annually to the examiner applies to "every banking association formed pursuant to the provisions of this chapter" (3103). The examiner's reports to the governor include information with regard to trust companies (130).

EXAMINATIONS.

These must be at least annual; trust companies are no doubt within the language "bank, savings, and other moneyed corporations" (129), even if they are not covered by the other section on annual examinations which covers "every bank or banking association organized to do business under this chapter" (3102).

IV.—Reserve Requirements.

A trust company must at all times maintain a reserve fund of at least 25 per cent of its liabilities to depositors, either in cash or on deposit subject to call with national or state banks approved by the examiner as reserve agents (3132, amd. by 1903, chap. 50, 9).

V.—Discount and Loan Restrictions.

The total liabilities to "any association deriving any of its powers or privileges from this chapter" of any person, company, or firm, for money borrowed, including in company or firm liabilities those of the members, must never exceed one-fifth of unimpaired paid-in capital plus unimpaired surplus, but the discount of bills of exchange drawn against existing values and that of commercial paper owned by the person negotiating it is not considered

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money borrowed (3096, amd. by 1907, chap. 55, 1, and 1909, chap. 107, 1). See Banks, V, for other loan restrictions, the language of which is quoted to indicate their scope.

The prohibition on indebtedness given under Banks, V, is applicable to any "banking association deriving any of its powers or privileges from this chapter" (3093).

VI.—Investments.

Capital and money received for investment may be invested "in good securities;" it is lawful to invest in mortgages on unincumbered real estate and chattels worth double the amount loaned, and in bonds of Wyoming, of the United States, of other States, or Wyoming municipalities (3132, amd. by 1907, chap. 50, 9). A loan and trust company may hold such real and personal estate as is necessary to carry on its business, as well as such as it deems necessary to acquire to settle claims (3131). The restriction given under Banks, VI, on holding real estate and the requirement that that held under mortgage or purchased to secure debts be sold at the end of five years apply to trust companies by bringing them within the language "every banking association organized to carry on the business of banking under the provisions of this chapter" (3092). The prohibition upon holding real estate in excess of 25 per cent of the capital stock, and the requirements with respect to commercial paper and other investments held when business is begun, given under Banks, VI, apply to trust companies by bringing them within the language "any banking association" (3125). They are thought also to be within the similarly worded section (see Banks, VI) restricting holdings of their own and other corporations' stock (3008).

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X.—Unauthorized Trust-Company Business.

Any person or association of persons who assume the name of a loan and trust company without due organization under the banking chapter are guilty of a misdemeanor punishable by fine of from $100 to $500 (3120). No corporation may carry on a loan and trust business without fully complying with the provisions of the banking chapter. Everyone interested in such an offending corporation is guilty of a misdemeanor, punishable by fine of from $1,000 to $2,000 for each offense (3134). See also the prohibition against use of a corporate name by persons engaged in banking and not subject to the chapter (3104).

XI.—Penalties.

See Banks, XI, for the language of the sections imposing penalties. The penal provision making it a felony punishable by ten years' imprisonment with hard labor to commit various frauds, including deception practiced upon an examiner (5003), and the other penal provision making it perjury, similarly punishable, to publish a false statement (5004), can be made applicable only by bringing trust companies within the language "banking association," etc. The penalties imposed by the chapter on "Bank examiner" apply clearly to trust companies; they are digested under Banks, XI.

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